100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-373

VETERANS' OMNIBUS HEALTH CARE AMENDMENTS OF 1987

OCTOBER 15, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 3449]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3449) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, reports favorably thereon by unanimous voice vote with amendments and recommends that the bill, as amended, do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 11, strike out the sentence beginning on line 1, and insert in lieu thereof the following:

Such charges shall be sufficient to cover all costs of the operation of day care centers operated under subsection (a) of this section (other than the cost of services provided without charge by the Administrator under subsection (b) of this section).

Page 12, after line 3, insert the following new section:

SEC. 11. REPORT ON EFFECT OF CERTAIN SPECIAL PAY AMENDMENTS.

Not later than one year after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to Congress a report on the implementation of the amendments made by sections 3 and 7 and the implementation of any other provision of law enacted during the 1st session of the 100th Congress making changes in special and incentive pay for various health care professionals in the Department of Medicine and Surgery. The report shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists and shall include such recommendations for further legislative action as the Administrator considers appropriate.

77-946

H763-15

INTRODUCTION

The Subcommittee on Hospitals and Health Care held a hearing on March 11, 1987, concerning the medical construction authorization request of the Veterans' Administration. Testimony was received from nine Members of Congress, the Veterans' Administration, The American Legion, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Disabled American Veterans.

The Subcommittee also held a hearing on April 22, 1987, on among other subjects, the status of recruitment and retention of Veterans' Administration health care personnel. Testimony was received from the Nurses Organization of the Veterans' Administration, the National Association of VA Physicians, the Veterans' Administration, The American Legion, Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America, and AMVETS.

On September 9, the subcommittee heard testimony regarding the Medical, Prosthetics and Rehabilitation, and Health Services Research Programs of the VA. Testimony was received from the Veterans' Administration, the Disabled American Veterans and the Paralyzed Veterans of America.

On October 7, the subcommittee met and unanimously recommended to the full committee draft legislation which would improve certain Veterans' Administration medical programs. The draft bill subsequently became H. R. 3449.

On October 14, the full committee met and unanimously recommended that H. R. 3449, as amended, be reported to the House.

SUMMARY OF REPORTED BILL

H.R. 3449, as reported, would:

(1) Authorize the establishment of a nonprofit corporation at each VA medical center at which significant medical research is carried out to provide a funding mechanism for monies received from other than VA appropriations to conduct approved research projects at the medical center.

(2) Authorize the Administrator to enter into incentive pay agreements with registered nurses (both currently employed by VA and new hires) at facilities which are determined to have a significant shortage of registered nurses in any clinical service as follows: $1,000 per year for an agreement to work two years; $2,000 per year for an agreement to work three years; and, $3,000 per year for four years.

(3) Permit the Administrator to authorize the use of the seal and other official symbols of the VA, and of the name "Veterans' Administration", by any person who makes a significant gift or contribution for the support of special recreational activities which further the rehabilitation of disabled veterans.

(4) Require that no appropriation may be made for a major VA medical facility project (a project costing more than $2 million) unless the Senate and House Veterans' Affairs Committees have each first adopted a resolution approving such project and its cost.

(5) Waive the State licensure or registration requirement for practical or vocational nurses, or physical therapists who are: (a)

employed to conduct research or serve in an academic position and who have no responsibility for furnishing direct patient care services or, (b) employed to serve in a country other than the United States and the licensure or registration of the person is in the country in which the person is to serve. Additionally, the requirement for an internship for employment as a VA psychologist would be waived only if the psychologist is to be employed to conduct research and will have no direct patient care responsibilities.

(6) Permit the Administrator, in order to recruit and retain pharmacists and occupational therapists, to pay them under the auspices of title 38, United States Code.

(7) Authorize the Veterans' Canteen Service to operate child day care centers at VA medical centers for children of VA employees on a fee basis sufficient to cover all costs of the operation of such day care center other than the costs of services provided by the Administrator.

(8) Codify the current VA practice that there must be at least two responsible, financially autonomous bidders before medical center support services may be contracted out under OMB Circular A-76.

(9) Set the income limit for admission to domiciliary care at both VA and State Home domiciliaries at the Category A income level (i.e., $15,195 per year for a single veteran or $18,234 for a veteran with one dependent plus $1,013 for each additional dependent) for veterans in need of domiciliary care.

(10) Require that the Administrator report to the Congress on the effect of the implementation of special and incentive pay provisions on the VA's ability to recruit and retain health care personnel.

Background and Discussion

Independent Research Corporations

The Veterans' Administration Department of Medicine and Surgery is required by statute to conduct a program of medical research "in order to carry out more effectively the primary function of the Department . . . and . . . to contribute to the Nation's knowledge about disease and disability." (38 U.S.C. 4101(c)(1)). The importance of research in improving the medical care available to veterans cannot be overstated. The ability to undertake research on a part-time basis makes the Department of Medicine and Surgery an attractive employer to many distinguished clinicians. Their presence as care-givers improves the quality of care which veterans receive. Moreover, the use of innovative techniques and therapies which result from research by such clinicians often means that care provided to veterans is more effective than care available at other medical facilities.

The VA has developed significant internal controls governing the conduct of research at VA medical centers. These controls are comparable to those used at the National Institutes of Health (NIH) and major universities. In addition, a VA researcher must obtain approval from concerned officials at the medical center where he or she is employed before proposing to undertake an application for research funds. Once an application is filed, it undergoes rigorous scrutiny through a research peer review process to examine the scientific merit and progress made in conducting the research.

Many VA researchers are able to obtain support for research which benefits veteran patients from sources other than appropriations made to the Veterans' Administration for medical research. These sources include the NIH, private foundations, and for-profit companies. However the Veterans' Administration has never received explicit authorization to administer research funds from non-VA sources. Consequently, there are awkward and occasionally ill-suited mechanisms in place to channel contributed funds for such research. At present, most research funds obtained from outside sources are channeled through an affiliated medical school. Some funds are donated to the VA General Post Fund, a trust fund which was originally established to deal with the personal property of veterans who die while in VA facilities. There are disadvantages to both of these funding mechanisms. Disbursements from the Post Fund may only be made "for the benefit of members and patients while being supplied care or treatment by the Veterans' Administration in any facility or hospital" (38 U.S.C. 5223). The Fund normally functions as a funding mechanism for the general welfare of such patients, and the use of the Fund for handling funds contributed for the cost of VA research is an unintended adaptation of the Fund's purpose. Funds that are channeled through affiliated medical schools are subject to the terms and conditions which the school applies to funds obtained by researchers employed by the school. In many cases, this means that a percentage, which varies from 15 to 40 per cent or more, of the funds obtained is retained by the medical school for "overhead" and related expenses of the school.

During the subcommittee's hearing on September 9, 1987, these facts were brought out in testimony by the Chief Medical Director and the Assistant Chief Medical Director for Research. In addition, the subcommittee heard testimony describing an alternative funding mechanism which had been independently established in connection with research undertaken at the Washington, D.C., VA Medical Center as well as certain other facilities. According to Dr. Richard Levine, the Associate Chief of Staff for Research and Development at this medical center, VA regulations regarding the acceptance and expenditure of private and corporate funds through the General Post Fund are too cumbersome or even inappropriate to use for a substantial amount of research activity. Restrictions on the authority to hire employees necessary to carry out research also hinder the conduct of important research.

In 1976, in response to an identified need to create a mechanism to support research associated with the Armed Forces Institute of Pathology (AFIP), the Congress created the American Registry of Pathology. Section 811(b), Public Law 94-361, codified at 10 U.S.C. 177. The purposes of the American Registry of Pathology include cooperative enterprises with the AFIP to promote education and research into pathology and to accept grants from private foundations and professional societies relating to research and maintenance of pathology registries. A similar foundation to enhance the research capability of the Uniformed Services University of the Health Sciences (USUHS) was created in 1983 (10 U.S.C. 178). Subsequently renamed as the Henry M. Jackson Foundation for the

Advancement of Military Medicine, the primary purpose of this Foundation is to carry out medical research and education projects under cooperative arrangements with USUHS, and to serve as a focus for interchange between military and civilian medical personnel. Like the American Registry of Pathology, the Foundation is authorized to accept gifts and grants in order to foster medical research and medical education activities at the University.

Section 2 of the reported bill would authorize the establishment of independent nonprofit corporations at each Veterans' Administration medical center at which significant medical or scientific research is carried out. These corporations would not be considered for any purposes as corporations owned or controlled by the United States, except for the limitations made applicable to these corporations by this Act. The significant requirements applicable to these corporations are as follows:

— Any corporation established under this subchapter would be required to conform to the applicable nonprofit corporation law of the jurisdiction in which it is organized. An exception recognizing the supremacy of Federal law is included in the event that Federal laws preempt State laws in a particular area.

— The corporation would be prohibited from carrying out any research which has not been approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds.

— A corporation would be required to seek and obtain recognition from the Internal Revenue Service as a nonprofit corporation which is exempt from taxes under section 501(c)(3) of the Internal Revenue Code.

— The Inspector General of the Veterans' Administration has an unfettered right to review corporate records at any time. Such records may also be reviewed by the General Accounting Office.

— Each corporation would be required to submit a detailed annual statement to the Administrator on its operations during the preceding year. The committee expects that the annual statement will include information concerning any funds which are paid to a Veterans' Administration employee.

— The records of the corporation would be reviewed by an independent auditor annually, and a copy of the auditors' report included with the corporation report.

— Each person who serves as a member of the board of directors or who is involved in or employed by the corporation must annually certify their understanding of Federal laws and regulations applicable to Federal employees with respect to conflicts of interest.

The committee believes that there are substantial advantages to be gained by the formation of corporations authorized by this bill. The committee expects the Department of Medicine and Surgery to carefully examine and monitor the operation of these corporations, and that the Inspector General will also schedule regular audits of their operations with a particular emphasis on insuring compliance with VA conflict-of-interest regulations.

Incentive Pay for Nurses

At the hearing on April 22, 1987, the subcommittee received testimony that the shortage of health care personnel, particularly nursing personnel, widely reported in various news media throughout the country, is also a critical problem in the VA's Department of Medicine and Surgery. This testimony reinforced correspondence received by many members of the committee reporting serious recruitment and retention problems at VA medical centers throughout the country. Singled out in the testimony and correspondence were significant problems in recruiting and retaining registered nurses: a survey conducted by the VA showed that 54.5 percent of medical centers reported moderate to severe difficulty in recruitment and retention of registered nurses, with some clinical services seriously affected.

Several problems were cited as contributing to the VA's difficulty in competing for scarce nursing personnel. Significant among the problems was remuneration. The committee recognizes that salaries may affect the attractiveness of the VA as a vocational alternative in two ways: recruiting nurses who are not currently employed by the Agency and retaining nurses who are. The committee believes the incentive of a one-time bonus paid for newly recruited nurses may not achieve the duration of employment that is desirable and may have an adverse effect on the morale and retention of current VA nurses. Therefore, the reported bill would authorize the VA to enter into incentive pay agreements with registered nurses who are current VA employees or who may be new to the VA at medical centers where there exists a significant shortage of registered nurses in any clinical service. These agreements would provide $1,000 per year for an agreement by the nurse to work for the VA for two years; $2,000 per year for an agreement to work for 3 years; and $3,000 per year for an agreement to work for 4 years.

Use of VA Seal

Recreational activities which further the rehabilitation of disabled veterans have been developed over the years in response to VA patient care needs and encompass national wheelchair games, sport clinics, and national art and musical festivals. For example, in 1981, VA recreation therapists initiated the national Veterans Wheelchair Games to provide a way to address the clinical needs of recently injured and aging veterans in an atmosphere of competition. The games include multiple events and are open to all veterans of American military service who use wheelchairs for mobility due to spinal cord injuries, certain neurological problems, or amputations. Participation has grown from 85 veterans in 1981 to over 400 in 1987. Other examples of these worthwhile therapeutic efforts are Vet Arts, the Golden Age Games, the National Music Festival, and Winter Sports Clinics provided by recreation therapists linked to assessed rehabilitative needs of the veterans. The VA reports that various research findings support the psychological value of such sports and arts participation in developing and maintaining self-discipline, self-respect, competitive spirit and comradeship. These programs also aid in general health maintenance through increased physical fitness.

These recreational/rehabilitative programs depend on alliances between the Veterans' Administration, veteran and non-veteran service organizations (such as the Council of National Resource Organizations), corporations, businesses, and individuals in providing financial and personnel support. In order to encourage such alliances, the reported bill would allow the Administrator to authorize the use of the official seal and other official symbols of the Veterans' Administration and of the name "Veterans' Administration" by a person or organization making a significant gift or contribution for the support of special recreational activities which further the rehabilitation of disabled veterans.

The committee believes that this no-cost authority at the discretion of the Administrator would encourage the continued support of recreational and rehabilitative activities. The reported bill would give the Administrator discretion to allow the use of symbols associated with the government of the United States in those circumstances where such use would not reflect adversely on the government. The committee expects that the Administrator will exercise the utmost discretion in allowing any person to use the VA seal or similar emblems associated with the Veterans' Administration.

Congressional Procedures for Approval of Medical Facility Acquisition and Construction

Section five is a technical amendment that would reinstate a previous statutory requirement that no appropriation may be made for a major medical facility project (i.e., one costing more than $2 million) unless the Senate and House Veterans' Affairs Committees each has first adopted a resolution approving such a project and its cost. Current law requires the adoption by the committees of identical texts approving major medical facility projects.

Appointments of Certain Personnel

Section 4105 of title 38, United States Code, requires registered nurses, practical or vocational nurses, and physical therapists along with physicians, dentists and other health care professionals to be licensed or registered in a State in order to be eligible for appointment in the VA's Department of Medicine and Surgery. No authority exists in title 38 for waiver of licensure or registration for permanent employees appointed pursuant to section 4104. However, section 4114 authorizes the Chief Medical Director to waive the State licensure or registration requirements for physicians, dentists, podiatrists, psychologists, registered nurses or optometrists, where those professionals are being appointed on a temporary full-time or part-time basis to research or academic posts and where there is no direct patient care responsibility.

The VA has testified that existing waiver authorities have allowed the agency to staff VA research and academic activities. However, in the few cases where the VA needs a practical or vocational nurse, or a physical therapist in a purely academic or research temporary full or part-time role, the appointee must still meet the requirement for licensure, even though he or she will not engage in patient care.

In a related situation, the Chief Medical Director may waive the requirement for State licensure or registration for physicians, dentists, podiatrists, psychologists, optometrists and registered nurses where the person is to serve the VA on a temporary full or part-time basis in a foreign country and where the person has licensure or registration in the country where the person is to serve. This authority has been useful in staffing the only foreign country VA health care installation at Manila, in the Philippines. However, in Manila the requirement for licensure in a State still applies to licensed or vocational nurses and physical therapists.

Section 6 of the reported bill would authorize the Chief Medical Director to waive the requirement in section 4104(a) of title 38, U.S.C., in the case of the internship of a psychologist and of licensure or registration, as appropriate, of a practical or vocational nurse, or physical therapist, in a State if the person to be appointed is: (1) to be employed in a research post or an academic post or where there is otherwise no direct responsibility for the care of patients; or, (2) to serve in a country other than the United States and such person's licensure or registration is in the country in which the person is to serve.

The committee stresses that this provision is intended to promote the VA's medical research and education programs by providing the Chief Medical Director with additional flexibility to appoint nonlicensed practical or vocational nurses, physical therapists, and registered nurses to research or academic assignments. The waiver authority contained in the reported bill is not intended to apply to, and would not be used in connection with, the appointment of a person who has any patient care responsibilities or duties. The waiver authority is also intended to assist the VA outpatient clinic in Manila in providing quality health-care to veterans by permitting the appointment of temporary full or part-time practical or vocational nurses or physical therapists who are licensed only in the Philippines to serve in that facility.

The committee is relying on VA testimony that the waiver authority is anticipated to be used sparingly. The committee urges that, where possible, persons with State licensure and/or registration be employed in academic and research positions in the belief that knowledge of direct patient care will have a beneficial effect in such activities.

Additional Pay Authorities for Pharmacists and Occupational Therapists

At the subcommittee hearing on April 22, 1987, testimony regarding the critical shortage of pharmacists at VA medical centers was received. In addition, the committee has received information that there is also a serious shortage of occupational therapists in the VA medical care system. The primary reason cited for the VA's serious difficulty in recruiting pharmacists and occupational therapists was salary. The situation for these professions is different from nurses in that title 5 personnel procedures govern the employment of pharmacists and occupational therapists. The flexibility to increase pay that is found in title 38 for nurses and other professions is not currently available for most title 5 employees. Section 7 of the reported bill would allow the VA to set rates of pay and qualifications standards for registered pharmacists or occupational therapists in the same way that such authority was granted in Public Law 98-160 for certain other health care personnel specialties. Reports from the VA reveal that this authority aided the VA in recruiting certified or registered respiratory therapists, licensed physical therapists, and licensed practical or vocational nurses, thus assisting the VA in easing the shortages of these professionals. Similar to the Public Law 98-160 pay authority, the committee emphasizes that it is not the intent of this provision to diminish or impair in any way the rights and protections guaranteed the pharmacists and occupational therapists under the express provisions of chapter 71 of title 5, U.S.C., relating to Federal labor management relations.

VA Child Day Care Centers

At the subcommittee hearing on April 22, testimony was received regarding the recruitment and retention of health care personnel. In particular, registered nurses, pharmacists and occupational therapists have been demonstrated to be professional groups which are in critical shortage in the VA medical care system. Indeed, there is a general shortage—especially of registered nurses—throughout the American medical care system, but the VA is especially hard pressed due to the Federal budgetary and personnel situation. Among the short term opportunities to maintain, if not improve, the VA's position in the medical manpower market are nonsalary employment benefits. One successful example has been the VA's Health Professional Scholarship Program. These nonsalary benefits may operate in two ways to improve recruitment and retention: (1) by increasing the supply of potential employees by bringing into the workforce those who are not currently working, and (2) by attracting a larger share of the workforce to the VA.

With regard to enlarging the workforce, it is interesting to note a recent publication of the United States General Accounting Office (GAO) entitled, "Child Care: Employer Assistance for Private Sector and Federal Employees" reported that changes in the American workforce over the last 40 years have resulted in a situation where 52 percent of mothers with children under the age of six are in the workforce and that the majority of American children today live in families where both parents, or the sole parent, are employed outside the home. Similar statistics have been provided by the Ad Hoc Day Care Coalition, in popular periodical literature and in professional journals.

However, alternatives to care for children by a parent have not kept pace with the demand. According to a recent report of the House of Representatives Committee on Government Operations, child day care centers serve only 10 to 15 percent of all preschool children of working mothers, forcing reliance on in-home care by relatives or nonrelatives, historically females. As more women enter the workforce, the number of people available and willing to deliver in-home child care decreases. Thus, child day care centers, particularly at the worksite, seem an attractive work related benefit.

With regard to enlarging the VA's share of the Nation's medical workforce, governmental and nongovernmental employers have begun to react to the need for child care. According to the GAO, worksite child care assistance by employers is growing: in 1982, the military services had established child day centers at over 400 installations worldwide, serving about 53,000 military dependents. GAO also reported that as of June 1985, 26 federal installations had onsite child day care centers and approximately 1,800 private sector employers offered some form of child care assistance, in both cases small percentages. GAO reports that "on-site child day care centers exist primarily in the health care field."

A recent article in *The Washington Post* reported that in the Washington, D.C. area, employers face very low unemployment rates and are seeing child day care as an incentive to attract potential employees. The committee has received testimony that, in competing with the private sector for scarce medical care personnel, child day care should be considered as an incentive for employment at the VA.

Section 8 of the reported bill would amend Chapter 75 of title 38 U.S.C., the Veterans' Canteen Service, to authorize the operation of child day care centers for VA employees under the auspices of the VA Canteen Service. This provision is derived from H.R. 3409 introduced by Congresswoman Elizabeth Patterson, a member of the committee.

Under this provision, the VA would provide without charge to the Canteen Service space in existing VA facilities for the day care centers. In addition, the VA would provide support services (including custodial services) and utilities. All other costs of the operation of such centers would be charged to users of the centers.

The committee believes, despite the caveats expressed by GAO regarding the paucity of research unequivocally demonstrating the benefits to employers from instituting child day care centers, that to maintain its position in the medical marketplace, the VA should establish such centers. The committee believes that it is possible that, in concert with other employers who are offering this benefit, an increase in the medical personnel supply may occur.

The committee is aware that at 14 VA medical centers, child day care centers are already in existence. This authorization should not be construed as a requirement that these centers be terminated or changed to conform with the concept authorized by this section.

Despite the existence of 19 operating or planned child day care centers at VA medical centers, the committee believes that this provision would further encourage a cost-effective incentive for persons to seek employment with the VA. In addition, the benefit to recruitment and retention of personnel, the committee expects that the VA will gain in other ways detailed in the GAO report, despite the lack of empirical evidence: improved morale, reduced turnover, and workforce productivity. The committee believes that the seriousness of the medical personnel recruitment difficulties currently experienced by the VA certainly warrant this attempt.

With regard to the operation of day care centers by the Veterans Canteen Service (VCS), it should be noted that VCS is an independent unit in the Veterans Administration and has been self-sustaining since its inception. While the language of the proposed section 4209 requires the Administrator to furnish space, support services, and utilities, the operation of such centers will require other significant capital investments. If the VCS is to continue to sustain operations without additional appropriations, the operating and personnel costs, as well as the initial capital costs, must be considered by the VCS in establishing the fees charged to users of the centers. The committee believes that VCS has sufficient authority and experience in managing self-sustaining commercial activities to successfully implement this new authority in a similar manner.

Integrity of Contracting out Process

Section 5010 of title 38, United States Code, limits the application of Office of Management and Budget Circular A-76 with regard to the VA's Department of Medicine and Surgery hospital system. This provision of law, enacted in 1982 as part of Public Law 97-306, reflects the concern of the committee and Congress regarding the potential harm to the quality of health care delivered in VA hospitals due to poor contractor performance.

In testimony before the committee on October 21, 1981, the VA stated that, "If we received, as a result of this cost study and these [sic] solicitation bids from two or more responsible, responsive bidders, we would then compare the government cost study with the bids to determine which offers the lowest overall costs." This so-called "Rule of Two" policy was recently reviewed as a result of a General Services Administration Board of Contract Appeals decision on a vendor protest. In this case, The Board held the VA "Rule of Two" could only be successfully invoked if the VA promulgated a change in the Federal Acquisition Regulations. Thus, the committee has renewed concern about this issue and section 9 of the reported bill would codify the current VA practice that at least two responsible, financially autonomous bidders exist before medical center support services may be contracted out under OMB Circular A-76. A letter on this subject to the Chairman from the Administrator of Veterans' Affairs follows:

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

SEP 16 1987

In Reply Refer To

Honorable G. V. (Sonny) Montgomery
Chairman
Committee on Veterans' Affairs
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of August 11, 1987, expressing concerns regarding the Veterans Administration's (VA) implementation of OMB Circular A-76, particularly as it relates to the requirement for two or more bidders on A-76 cost comparisons.

I wish to assure you that the VA has carefully identified its inventory of activities to be cost compared with the private sector, and has ensured that it does not contain any function which is direct patient care or an activity incident to direct patient care. This exclusion is consistent with both Section 5010 of Title 38, United States Code, and OMB Circular A-76. We support the continued exemption of those critical VA mission-oriented functions. We also share your concern regarding the need for continuity of service for those support services which are not exempted and must be reviewed as prescribed by OMB Circular A-76.

The VA A-76 "Rule of Two" requirement was adopted for use in 1981 as a means for decreasing the possibility that a disruption in services would occur because a single-source contractor was unable to continue performance. It also provided some protection from unreasonable contract price escalation in ensuing contract periods.

The VA reassessment of the A-76 "Rule of Two" provision was recently prompted by a General Services Board of Contract Appeals (GSBCA) decision (enclosed) upholding a vendor protest in the use of the "Rule of Two" provision. While the decision was rendered on a procedural issue rather than on the merits of the VA "Rule of Two" policy, it clearly established that the "Rule of Two" requirement could only be continued after processing a deviation from the Federal Acquisition Regulation and obtaining public comments pursuant to Section 302 of the Small Business and Federal Competition Enhancement Act. While supporting the need for minimizing the potential for A-76 contract disruption, we are attempting to develop a policy in the use of the two-bidder provision which maintains necessary protection and will withstand public scrutiny.

We plan to issue an interim VA regulation and solicit public comments. After careful review and full assessment of all comments received, we will make a final decision on this policy.

In summary, I wish to assure your Committee that we will carefully consider the "Rule of Two" issue and the options for its use. Let me further assure you that there is no option being considered that would eliminate the two-bidder requirement. The question currently being reviewed concerns the circumstances under which it will be used. We will be happy to provide a detailed briefing on this subject for you or members of your staff. Mr. Burt Talcott, Associate Deputy Administrator for Congressional Affairs, (telephone No. 233-2482) will arrange for such a briefing at your request.

Thank you for your interest and support of the Veterans Administration's programs.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

Domiciliary Eligibility

A recent legal opinion (July 14, 1987) of the VA's General Counsel concluded that section 641 of title 38, U.S.C., which authorizes the VA to pay a per diem amount for each veteran receiving domiciliary, nursing home or hospital care in a State home, authorizes such aid to States only for the care of veterans who are eligible for the needed level of care in a VA facility. Current eligibility standards for VA domiciliary care restrict provision of such care to:

(1) A veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuro-psychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

(2) A veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.

The practical implication of the General Counsel's opinion lies in the current VA regulation which provides that when an applicant for domiciliary care "is receiving an income of $415 or more per month from any source for personal use, this fact will be considered prima facie evidence of adequate means of support," (38 C.F.R. section 17.48(b)). Thus, an individual with monthly income in excess of this level is ineligible for domiciliary care, subject to a rebuttal by the veteran demonstrating that the income is not adequate to provide the care required. This income level has not been revised since 1980. Moreover, the VA regulation on this topic is inconsistent with changes made by Public Law 99-272.

The National Association of State Veterans Homes conducted a survey of domiciliary residents by income levels as of July 31, 1987. As can be seen below in the summary of that survey, over half of the residents had incomes of between $415 and $745; an additional 16 percent had incomes over $745.

NATIONAL ASSOCIATION OF STATE VETERANS HOMES

SURVEY OF DOMICILIARY RESIDENETS BY INCOME BRACKET

AS OF JULY 31, 1987

		INCOME LEVELS			
	NO INCOME	$1 TO $414	$415 TO $745	OVER $745	TOTAL
REPORTED CENSUS	549	855	2,306	711	4,421
PROJECTED DAYS OF CARE	200,385	312,075	841,690	259,515	1,613,665
PROJECTED V.A. PER DIEM PAYMENTS	$1,462,810	$2,278,148	$6,144,337	$1,894,460	$11,779,755
PERCENT OF TOTAL	12.42%	19.34%	52.16%	16.08%	100.00%

Sample = 100%; 42 Homes from 32 States reporting.

There are 344 additional beds in the State Home Program that are occupied by Non-Vets.

Reported Census is as of July 31, 1987, Projected Days of Care are based on 365 days in a year, and the Projected V.A. Per Diem Payments are based on the current $7.30 per diem.

(UNAUDITED FIGURES)

JJD:rr
8-21-87

In the reported bill, the determination of "inability to defray the expense" of domiciliary care is made consistent with the determination used for hospital and nursing home care as set out in section 622(a) of title 38 U.S.C. i.e.,: eligibility to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); receipt of pension under section 521 of title 38 U.S.C.; or, attributable income not greater than the Category A threshold (i.e., for fiscal year 1988 $15,195 for veterans with no dependents and $18,234 for veterans with one dependent, plus $1,013 for each additional dependent). Veterans who do not meet one of these three criteria would not be eligible for domiciliary care except in unusual cases.

The committee believes that the $415 monthly income level, not having been adjusted since July 7, 1980 is unreasonably low, especially for veterans whose health needs otherwise qualify them for domiciliary care. The committee also believes that the damage to the State home domiciliary program which would result from the loss of over half of the domiciliary beds should be avoided. Finally, the committee believes that the income level for inability to defray the costs of care should be consistent within title 38 for all types of VA medical care, most recently defined in Public Law 99-272.

Report on Effect of Certain Special Pay Amendments

Section 11 of the reported bill would require the VA to submit to the Congress a report on the implementation of the incentive pay for nurses (section 3 of the reported bill) and the additional pay authorities for pharmacists and occupational therapists (section 7 of the reported bill) as well as other provisions of law enacted during the 1st session of the 100th Congress (such as sections 202, 204, and 208 of H. R. 2616). The report is intended to described the effect of these incentives on the ability of the VA to recruit and retain the nurses, pharmacists, occupational therapists, and physical therapists needed to meet the medical mission of the VA. In addition the report is required to include recommendations for further legislative action as the Administrators deems appropriate.

The committee in general attempts to keep to a minimum the reports expected of the VA. Such reports absorb personnel and other resources that might be used in direct delivery of health care services. However, the testimony received by the committee clearly demonstrates the critical nature of the personnel recruitment and retention difficulties being faced by the VA. A report on the success of the provisions intended to ameliorate these difficulties is important in guiding the committee in futher legislative efforts.

SECTION-BY-SECTION ANALYSIS

Section 1.—Provides that all references in the bill are to title 38, United States Code, unless otherwise expressly provided.

Section 2.—Amends chapter 73 of title 38, pertaining to the Department of Medicine and Surgery, by adding to the chapter a new subchapter VI entitled "Research Corporations". This new subchapter contains seven sections.

Proposed section 4161 authorizes the Administrator to establish nonprofit corporations at Veterans' Administration medical centers at which significant medical research is carried out. This authority is permissive in nature, but the committee expects that it will be utilized at the request of individual medical centers where justified. Each corporation established under this authority is required to seek and obtain recognition as a nonprofit corporation under the Internal Revenue Code provision authorizing the United States to recognize such entities for tax purposes. If such recognition is not achieved within a three year period beginning on the date that the corporation is established, the Administrator must dissolve such corporation.

Proposed section 4162 limits the purposes for which a corporation can be established under the authority of this subchapter to the conduct of research authorized by section 4101 of this title. Research which is not authorized by this section could not be carried out by the corporation.

Proposed section 4163 provides for the appointment of a board of directors and an executive director for each corporation. The committee expects that the by-laws of the corporation will incorporate the requirements of this section. The board must include the director of the medical center, the assistant chief of staff for research (or an individual with an equivalent appointment to supervise research), and persons who are disinterested in any aspect of the corporation or any source of funding for research by the Veterans' Administration. The Administrator has the power to review, and must approve, the choice of an executive director. The proposed section 4163(c) prohibits appointment of directors who have any relationship whatever with a source of funding for any research conducted by the Veterans' Administration unless that source is a governmental entity or a nonprofit entity such as a foundation which sponsors research.

Proposed section 4164 provides general authority to accept funds to conduct research and to hire employees to carry out the purposes of the corporation. This section should not be interpreted as a limit on a corporation's powers except for the express prohibition against using funds for any research project which has not been approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with funds appropriated to the Veterans' Administration.

Proposed section 4165 requires corporations established under this subchapter to comply with applicable state law except where a Federal law makes such compliance inconsistent with the requirements of such law. The committee expects the Administrator to make every effort to harmonize any conflicts which may arise between state and Federal law, and to attempt to comply with state law in every case.

Proposed section 4166 sets out additional requirements with which each corporation must comply. Each corporation must make available all of its records to the Inspector General of the Veterans' Administration upon request. The proposed section also requires the corporation to submit a detailed annual report which includes a detailed statement of independent auditors concerning the corporations' financial activities. The committee expects that any compensation or other benefit which inures to the benefit of any VA employee will be fully set out in the report. In addition, this section would require all persons who are involved in the functions of the corporation to certify annually their understanding of Federal laws and regulations pertaining to Federal employees and conflicts of interest.

Proposed section 4167 would prohibit the establishment of such corporations after September 30, 1990.

Section 3.—Amends section 4107 of title 38 to authorize the Administrator to enter into agreements with registered nurses under which additional compensation would be payable to such nurses who are employed at medical centers designated by the Administrator as having a significant shortage in any clinical service. The amount of such incentive pay shall be $1,000 per year in the case of an agreement to work for the Veterans' Administration for two years, $2,000 per year in the case of an agreement for three years, and $3,000 per year in the case of an agreement for four years. The committee envisions that this additional incentive pay will be paid in equal installments over the life of the agreement. The proposed authority includes a provision requiring the Administrator to include repayment and penalty provisions in the event a nurse fails to complete the required period of employment. The committee expects that these penalty provisions would be similar to the provisions contained in the nurse scholarship program codified at section 4144 of this title.

Section 4.—Amends section 202 of title 38, pertaining to the official seal of the Veterans' Administration, to authorize the Administrator to permit persons to make commercial and other use of the seal, as well as of the name and other official symbols of the agency, in exchange for such person's contribution for the support of recreational activities which further the rehabilitation of disabled veterans. The committee expects that the Administrator will approve the use of the seal and other symbols in cases where the contribution, whether monetary or nonmonetary, is of such magnitude that it is out of the ordinary and where the recreational activity is designed for a specific purpose or occasion as opposed to routine programmatic therapeutic activities.

Section 5.—Amends section 5004 of title 38, pertaining to authorization by the Committees on Veterans' Affairs of major construction projects, so that a point of order could be made against the appropriation of any funds for a major construction project, defined as one estimated to cost in excess of $2,000,000, if the project had not been approved in resolutions adopted by each committee. This provision basically restores language which was amended in 1985 by Public Law 99-166.

Section 6.—Amends section 4114 of title 38 to permit the Chief Medical Director to waive licensure requirements applicable to the appointment of practical or vocational nurses or physical therapists in cases where the appointment would be to a position in a research or academic capacity which entails no responsibility for furnishing direct patient-care services. A similar authority to waive the internship requirement for psychologists appointed to research or academic positions involving no direct patient-care services is also provided by this section.

Section 7.—Amends sections 4107 and 4104 of title 38 to authorize the Administrator to provide special pay to pharmacists and occupational therapists on the same basis as provided for nurses in section 4107(e).

Section 8.—Amends chapter 75 of title 38 by adding a new section 4209 which authorizes the Veterans' Canteen Service to operate child day care centers for the benefit of employees at Veterans' Administration medical centers. This new section authorizes the Administrator to provide to the Service, without charge, space in existing VA facilities, certain support services and utilities. This section also authorizes the Administrator to approve the establishment of reasonable charges for the day care services and requires that such charges be sufficient to cover all costs of the operation of the day care centers other than the costs of services provided without charge by the Administrator. Since the Service has been self-sustaining since its inception in the mid-1940's, it is the committee's intention that this activity will be undertaken without the need for specific new appropriations. The bill also includes authority for the Administrator to screen employees who will work at such centers; the committee expects the Administrator to use great discretion to avoid employing persons who are unsuitable for work with children.

Section 9.—Amends section 5010(c) of title 38, pertaining to contracting out of functions at VA health care facilities, to require that no functions be contracted out unless the Administrator receives responsive bids to perform the function from at least two responsible, financially autonomous bidders.

Section 10.—Amends section 622 of title 38 so that the determination of a veteran's inability to defray the cost of needed medical services would be consistent for all types of VA care. The amendment would make the Category A threshold, which is presently applicable to veterans seeking inpatient, outpatient and nursing home care, the maximum income limit for veterans applying for domiciliary care.

Section 11.—Requires the Administrator to submit to Congress a report on the amendments made by sections 3 and 7 of this bill and the implementation of any other provision of law enacted during the 1st session of the 100th Congress making changes in special and incentive pay for various health care professionals in the Department of Medicine and Surgery. This section requires particular attention in the report to the effects of specialty and incentive pay on the ability of the VA to meet its requirements to recruit and retain the services of nurses, pharmacists, occupational therapists, and physical therapists and requires the inclusion in the report of recommendations for further legislative action considered appropriate by the Administrator.

OVERSIGHT FINDINGS

Oversight findings have been submitted to the committee by the Committee on Government Operations in the form of a report: ***Child Care in Federal Buildings,*** twenty-first report by the Committee on Government Operations, U.S. House of Representatives. (House Report 100-333, October 2, 1987.)

INFLATIONARY IMPACT STATEMENT

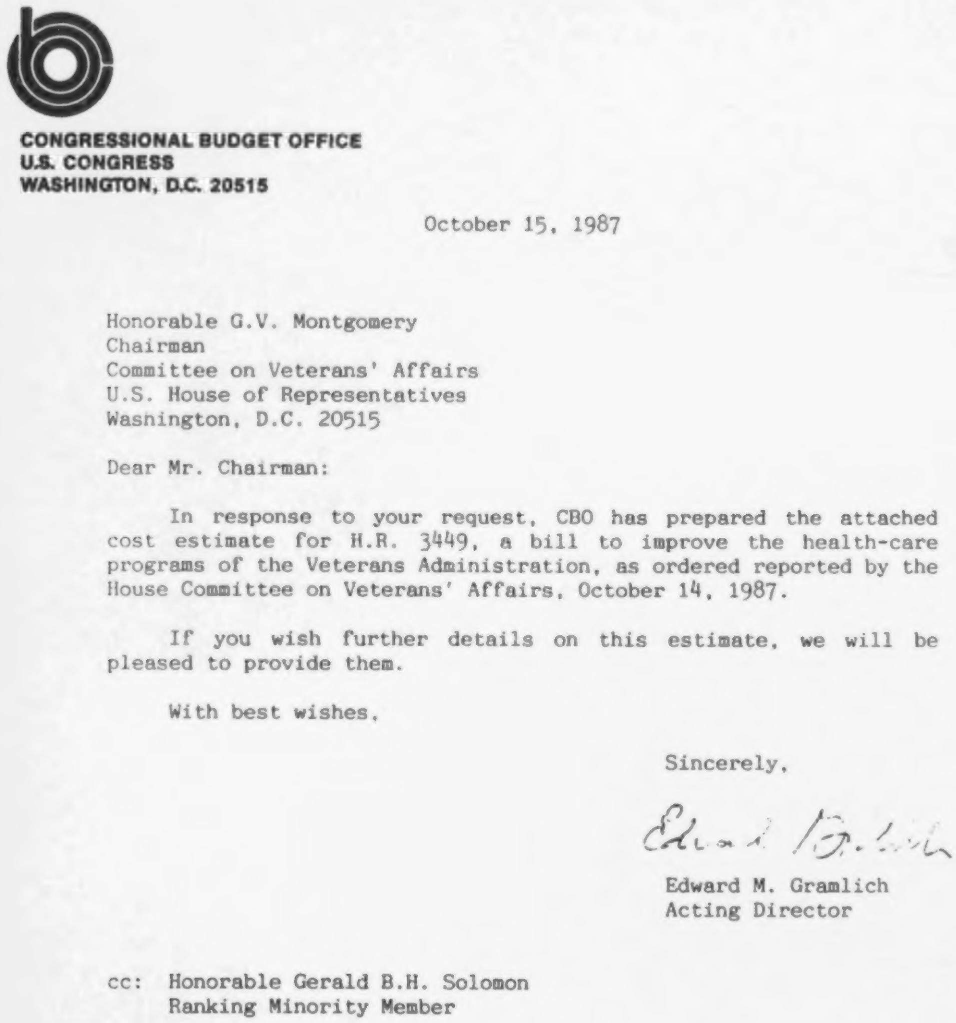
The reported bill would have no inflationary impact.

AGENCY REPORT

The committee has not received the views of the Veterans' Administration on provisions contained in the reported bill.

CONGRESSIONAL BUDGET COST ESTIMATE

The Congressional Budget Office estimate is as follows:



CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 15, 1987

Honorable G.V. Montgomery
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In response to your request, CBO has prepared the attached cost estimate for H.R. 3449, a bill to improve the health-care programs of the Veterans Administration, as ordered reported by the House Committee on Veterans' Affairs, October 14, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Edward M. Gramlich
Acting Director

cc: Honorable Gerald B.H. Solomon
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 15, 1987

1. BILL NUMBER: H.R. 3449

2. BILL TITLE: None.

3. BILL STATUS:

   As ordered reported by the House Committee on Veterans' Affairs, October 14, 1987.

4. BILL PURPOSE:

   To improve the health-care programs of the Veterans Administration (VA).

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Revenue	-5	-6	-6	-6	-6
Budget Authority	-5	-1	-1	-1	-1
Estimated Outlays	2	-1	-1	-1	-1
Deficit	7	5	5	5	5

The cost of this bill would fall in budget function 700.

Basis of Estimate

The following section-by-section cost analysis addresses only those sections of the bill that could be expected to have a significant budgetary impact.

Section 2. This section would authorize the establishment of non-profit corporations at VA medical centers to provide a flexible funding mechanism for medical research. The funds made available to the corporations would be any funds received by the VA from public, private, or corporate entities for the conduct of medical research, with the exception of funds appropriated directly to the VA. Funds of the corporations could only be spent on research projects approved by the VA.

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Revenue	-5	-6	-6	-6	-6
Budget Authority	-5	-6	-6	-6	-6
Estimated Outlays	3	-6	-6	-6	-6
Deficit	8	0	0	0	0

The research funds that would be administered by the new corporations -- for example, National Institutes of Health grants, private foundation grants, and grants from large drug companies -- are federal revenues, received and administered by the General Post Fund. After enactment of this provision, these grants would be made directly to the new corporations, thus reducing federal revenues.

The outlay impact of this provision would result, in 1988, from the transfer to the new corporations of approximately $8 million in research monies currently held by the General Post Fund. This is partially offset by the elimination of about $5 million in expenditures of the Fund for research. In 1989 and later years, outlays would reflect only the elimination of the grant expenditures.

Since the budget authority in this account represents the income of the Fund, the effect of this provision on budget authority would be the loss of income from new grants and from interest earnings on reserves.

Section 3. This section would authorize a three-tier incentive-pay system for VA nurses. Under this system, nurses signing two-year employment contracts would receive a bonus of $1,000 a year, three-year contracts would bring $2,000 a year, and four-year contracts $3,000 a year. However, if the term of the employment contract is not fulfilled, all bonus amounts received would have to be repaid and penalties could be charged.

	(By fiscal years, in millions of dollars)				
	1988	1989	1990	1991	1992
Estimated Authorization Level	0	5	5	5	5
Estimated Outlays	0	5	5	5	5

According to VA staff, it takes the agency a full year to implement a new special pay measure. The estimate above, therefore, assumes that no bonuses would be paid during FY 1988. According to the House Veterans' Affairs Committee staff, it is the Committee's intent that bonuses would only be offered in medical facilities experiencing a nursing shortage of at least 10 percent. This was assumed in the estimate. Vacancy data as of April 1987 indicate that 15 VA facilities had nursing vacancy rates in excess of 10 percent. This level was assumed to remain the same throughout the projection period. The estimate also assumes that staffing levels in facilities paying bonuses would expand to the full FTEE ceiling as a result of the bonuses.

Of those nurses offered bonuses, 20 percent were assumed to chose two-year contracts, 50 percent three-year contracts, and 30 percent four-year contracts. A larger percentage would have been assumed to select the more profitable long-term commitments were it not for the repayment requirement and penalties associated with failure to fulfill the contract.

Section 10. This section would replace the current income test for domiciliary care, both in VA and state home domiciliaries, with the income test for VA hospital care contained in section 610 (a)(1).

Even though this provision would increase the income limit for admission to a VA or state home domiciliary from $415 per month to $1,250 a month, it is not expected that the change would significantly affect domiciliary admissions, because the current income limit is either waived or ignored in virtually all cases.

According to VA program officials, VA domiciliaries rarely turn anyone away solely because of excessive income. This was confirmed by the study, Financial Quality Control Changes Needed in Domiciliary Care (General Accounting Office, GAO/HRD-87-57, June 1987), in which the GAO found that about 29 percent of the veterans reviewed by the study had incomes that exceeded the current $415 per month limit. The amounts by which incomes exceeded the limit varied from $1 to $880 monthly. The income of one veteran in the study would exceed even the limit proposed by section 10. Thus, a higher limit that was strictly enforced could be more restrictive than current practice in some facilities. However, the number of veterans in or applying for admission to VA domiciliaries who have incomes above $1,250 a month is expected to be quite small.

Prior to June 1987, state home domiciliaries were not considered to be subject to the income limit that applies to VA domiciliaries. Admission eligibility requirements were set by the states; and few, if any, state domiciliaries turned veterans away because of their incomes. In July, however, the VA General Counsel ruled that the VA would reimburse state domiciliaries only for those veterans who could meet the VA-domiciliary income test.

The agency has not yet determined how this ruling will be implemented, so the extent to which current practice will be changed is unknown. While section 10 might have a cost compared to some future implementation of the General Counsel's ruling, such costs cannot now be determined. However, compared to current practice, it appears unlikely that the number of VA-subsidized residents in state domiciliaries would change significantly as a result of this provision.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

Subchapter I—Veterans' Administration

* * * * * * *

§ 202. Seal of the Veterans' Administration

(a) The seal of the Veterans' Administration shall be judicially noticed. Copies of any public documents, records, or papers belonging to or in the files of the Veterans' Administration, when authenticated by the seal and certified by the Administrator or by any employee of the Veterans' Administration to whom proper authority shall have been delegated in writing by the Administrator, shall be evidence equal with the originals thereof.

(b) The Administrator may authorize the use, for purposes approved by the Administrator, of the seal and other official symbols of the Veterans' Administration, and of the name "Veterans' Administration", by any person who makes a significant gift or contribution to the Administrator for the support of special recreational activities which further the rehabilitation of disabled veterans.

* * * * * * *

PART II—GENERAL BENEFITS

* * * * * * *

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * * * *

Subchapter III—Miscellaneous Provisions Relating to Hospital and Nursing Home Care and Medical Treatment of Veterans

* * * * * * *

§ 622. Determination of inability to defray necessary expenses; income thresholds

(a)(1) For the purposes of [section 610(a)(1)(I)] *sections 610(a)(1)(I) and 610(b)(2)* of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

* * * * * * *

(g) For the purposes of [sections 610(b)(2) and 624(c)] *section 624(c)* of this title the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

* * * * * * *

PART V—BOARDS AND DEPARTMENTS

* * * * * * *

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

SUBCHAPTER I—ORGANIZATION; GENERAL

* * * * * * *

SUBCHAPTER VI—RESEARCH CORPORATIONS

4161. Authority to establish; status.
4162 Purposes of corporations.
4163. Board of directors; executive director.
4164. General powers.
4165. Applicable State law.
4166 Accountability and oversight.
4167. Expiration of authority.

Subchapter I—Organization; General

* * * * * * *

§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxilliaries;

(2) [Pharmacists, psychologists (other than those described in paragraph (3)), occupational therapists] *Psychologists (other than those described in paragraph (3) of this section),* dietitians, and other scientific and professional personnel, such as micro-

biologists, chemists, biostatisticians, and medical and dental technologists; and

(3) Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified or registered respiratory therapists, licensed physical therapists, [and] licenses practical or vocational nurses, *pharmacists, and occupational therapists.*

* * * * * * *

§ 4107. Grades and pay scales

(a) * * *

* * * * * * *

(f) Physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in subsection (e) of this section. Notwithstanding any other provision of law, when the Administration determines it to be necessary in order to obtain or retain the services of certified or registered respiratory therapists, licensed physical therapists, [or] licensed practical or vocational nurses, *pharmacists, or occupational therapists,* the Administrator may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in subsection (e) of this section. The Administrator shall prescribe by regulation standards for compensation and payment under this subsection.

* * * * * * *

(j)(1) The Administrator may enter into agreements under this subsection for the recruitment and retention of registered nurses by the Veterans' Administration. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration Medical Center that is designated by the Administrator as a medical center with a significant shortage in registered nurses in any clinical service.

(2) A registered nurse entering into an agreement under this subsection shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement. Such period shall be not less than two years or more than four years.

(3) The Administrator shall pay to any nurse entering an agreement under this subsection incentive pay for the duration of the agreement. The amount of such incentive pay shall be—

(A) $1,000 per year, in the case of an agreement for two years,

(B) $2,000 per year, in the case of an agreement for three years, and

(C) $3,000 per year, in the case of an agreement for four years.

(4) Each agreement under this subsection shall include provisions requiring the Administrator to require repayment, with suitable penalties to be specified in the agreement, of amounts paid under this subsection if the nurse concerned fails to complete the period of

employment with the Veterans' Administration specified in the agreement.

(5) The authority of the Administrator to enter into agreements under this subsection is subject to the availability of appropriated funds for such purpose.

* * * * * * *

§ 4114. Temporary full-time, part-time, and without compensation appointments; residencies or internships

(a) * * *

* * * * * * *

[(d) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure of a physician, dentist, podiatrist, psychologist, or optometrist, or the registration of a nurse must be in a "State", if—

[(1) in the case of a physician, dentist, podiatrist, psychologist, or optometrist, the person is to be used on a research or an academic post or where there is no direct responsibility for the care of patients; or

[(2) in any case, where the person is to serve in a country other than the United States and such person's licensure or registration is in the country in which the person is to serve.]

(d)(1) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure or registration, as appropriate, of a physician, dentist, podiatrist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist must be in a State if the person—

(A) is to be employed to conduct research or serve in a academic position and to have no responsibility for furnishing direct patient-care services; or

(B) is to be employed to serve in a country other than the United States and the licensure or registration of such person is in the country in which the person is to serve.

(2) The Chief Medical Director may for the purpose of the appointment under this section of a psychologist who meets the conditions described in paragraph (1)(A) of this subsection waive the requirement of section 4105(a)(8) of this title that a psychologist must have completed an internship.

* * * * * * *

Subchapter VI—Research Corporations

§ 4161. Authority to establish; status

(a) The Administrator may authorize the establishment at any Veterans' Administration medical center at which significant medical or scientific research is carried out of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise provided in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be re-

quired to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

(b) If by the end of the three-year period beginning on the date of its establishment a corporation established under this subchapter is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall immediately dissolve the corporation.

§ 4162. Purposes of corporations

Any corporation established under this subchapter shall be established to carry out medical research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be administered by the corporation for those purposes.

§ 4163. Board of directors; executive director

(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

(2) members appointed from outside the Government who are familiar with issues involving medical and scientific research, including members who are not affiliated with any source of funding for research by the Veterans' Administration.

(b) Each such corporation shall have an executive director, who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration, and who shall be responsible for the day to day operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

§ 4164. General powers

(a) In order to carry out the purposes of this subchapter, any corporation established under this subchapter may—

(1) accept gifts and grants from, and enter into contracts with, individuals, private corporations, professional societies, institutions, and Government agencies solely to carry out the purposes of this subchapter; and

(2) employ such employees as it considers necessary and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accord-

ance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds.

§ 4165. Applicable State law

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

§ 4166. Accountability and oversight

(a) The Inspector General of the Veterans' Administration shall have the right to examine the records of any corporation established under this subchapter.

(b) Each such corporation shall submit a detailed annual report to the Administrator on its operations, activities, and accomplishments during the preceding year. The report shall include a report of independent auditors concerning the receipts and expenditures of funds by the corporation during the preceding year.

(c) Each member of the board of directors of a corporation established under this subchapter and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions.

§ 4167. Expiration of authority.

No corporation may be established under this subchapter after September 30, 1990.

* * * * * * *

CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.
4201. Purpose of Veterans' Canteen Service.
4202. Duties of Administrator with respect to Service.
4203. Operation of Service.
4204. Financing of Service.
4205. Revolving fund.
4206. Budget of Service.
4207. Audit of accounts.
4208. Service to be independent unit.
4209. Child day care centers.

* * * * * * *

§ 4209. Child day care centers

(a) The Service may operate child day care centers at facilities of Veterans' Administration medical centers. The centers shall be available for the children of Veterans' Administration employees.

(b) For the purposes of subsection (a) of this section, the Administrator shall provide to the Service without charge space in existing Veterans' Administration facilities, support services (including custodial services), and utilities. Any other facilities or services provid-

ed by the Administrator to the Service for the purpose of subsection (a) of this section shall be provided on a reimbursable basis.

(c) The Service may establish reasonable charges, to be approved by the Administrator, for day care services provided under subsection (a) of this section. Such charges shall be sufficient to cover all costs of the operation of day care centers operated under subsection (a) of this section (other than the cost of services provided without charge by the Administrator under subsection (b) of this section).

(d) In assigning employees to the operation of day care centers under this section, the Administrator shall ensure that such employees are assigned based on their suitability and fitness for such duties.

* * * * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

* * * * * * *

Subchapter I—Acquisition and Operation of Medical Facilities

* * * * * * *

§ 5004. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

[(2) After the adoption by the committees during a fiscal year of resolutions with identical texts approving major medical facility projects, it shall not be in order in the House of Representatives or in the Senate to consider a bill, resolution, or amendment making an appropriation for that fiscal year or for the next fiscal year which may be expended for a major medical facility project—

[(A) if the project for which the appropriation is proposed to be made is not approved in those resolutions; or

[(B) in the event that the project is approved in the resolutions, if either—

[(i) the bill, resolution, or amendment making the appropriation does not specify—

[(I) the medical facility project for which the appropriation is proposed to be made; and

[(II) the amount proposed to be appropriated for the project; or

[(ii) the amount proposed to be appropriated for the project (when added to any amount previously appropriated for the project) exceeds the amount approved for the project.]

(2) No appropriation may be made for a major medical facility project unless each committee has first adopted a resolution approving such project and setting forth the estimated cost of such project.

* * * * * * *

§ 5010. Operation of medical facilities

(a) * * *

*   *   *   *   *   *   *

(c)(1) * * *

(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if *responsive bids are received from at least two responsible, financially autonomous bidders and* the Administrator determines—

(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

(B) that the quantity and quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

*   *   *   *   *   *   *

○

100TH CONGRESS
1st SESSION | HOUSE OF REPRESENTATIVES | REPORT
100-387

VETERANS' EMPLOYMENT AND TRAINING ACT OF 1987

OCTOBER 21, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 3460]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3460) to amend chapter 41 of title 38, United States Code, with respect to veterans' employment and training, having considered the same, reports favorably thereon, by unanimous voice vote, with amendments and recommends that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 14, line 9, insert "**AND TRAINING**" after "**EMPLOYMENT**".
Page 15, lines 21 and 22, strike out "State" each place it appears.
Page 18, line 4, strike out "and (d)".
Page 18, line 13, strike out "2006(d),".
Page 19, line 8, strike out "sections" and insert "section".

INTRODUCTION

On May 13, 1987, the Subcommittee on Education, Training and Employment met to review certain veterans' employment programs administered by the Department of Labor and to determine if these programs were serving the needs of veterans as intended by Congress. The subcommittee was particularly concerned with the provisions of chapter 41, title 38, United States Code, which mandate job counseling, training and placement services for veterans. Witnesses included: Mr. Paul Egan, The American Legion, accompanied by Mr. Dennis Rhoades; Mr. James Bourie, AMVETS; Mr. Bill

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Prince and Mr. Roberts T. Jones, U.S. Department of Labor. Additional witnesses were: Mr. Ronald Drach, Disabled American Veterans; Mr. Gordon Thorson accompanied by Mr. Robert Jones, Veterans of Foreign Wars; and Mr. Richard Weidman, Vietnam Veterans of America.

Because the need for a revision of chapter 41 was clearly established during the May 13th hearing, the subcommittee met again on September 17, 1987, to review draft legislation which would tighten and improve the delivery of veterans' employment services. Winesses at this hearing included: the Honorable Donald Shasteen and the Honorable G. B. (Bill) Prince, Department of Labor; Mr. Philip Riggin and Mr. Dennis Rhoades, The American Legion; Mr. Gordon Thorson and Mr. Robert Jones, Veterans of Foreign Wars; Mr. Ronald Drach, Disabled American Veterans; and Mr. John Messmore, Vietnam Veterans of America. Also testifying were Mr. Thomas Dyson and Mr. Alan Lafferman, representing the Interstate Conference of Employment Security Agencies.

The subcommittee met again on October 7, and unanimously recommended a draft bill to the full committee. The proposal was introduced on October 9 as H.R. 3460. On October 14, the full committee unanimously approved H.R. 3460 and ordered the bill reported to the House.

SUMMARY OF H.R. 3460

The reported bill would:

1. Clearly define the responsibilities of Local Veterans' Employment Representatives (LVERs).
2. Provide a formula, based on need, establishing the staffing level for LVERs.
3. Clarify the role of the Assistant Secretary of Labor for Veterans' Employment and Training (ASVET) as the official in the Department of Labor (DOL) with primary responsibility for veterans' employment and training programs and establish the responsibility of the ASVET to ensure that veterans are fully served under all DOL employment and training programs.
4. Codify the position of Regional Administrator for Veterans' Employment and Training and require that Regional Administrators be eligible veterans.
5. Codify the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training (DASVET) and require that the DASVET be an eligible veteran.
6. Require the Secretary to report annually to the appropriate committees of Congress on the success during the preceding program year of the Department of Labor and State employment service agencies in carrying out the provisions of chapter 41 and programs for the provision of employment and training services to meet the needs of veterans.
7. Establish the National Veterans' Employment and Training Service Institute.
8. Require Directors of Veterans' Employment and Training to functionally supervise the provision of services to eligible veterans and eligible persons by the Employment Service system and other pertinent programs.

9. Require Directors for Veterans' Employment and Training to monitor the implementation of veterans preference in federal agencies.

10. Require Directors for Veterans' Employment and Training to monitor the listing of job vacancies with the Job Service by federal agencies.

11. Expand the Secretary of Labor's Committee on Veterans' Employment to include a representative of the Secretary of Education, the Postmaster General and the Director of the ACTION Agency.

BACKGROUND

Since the end of World War I, Federal employment agencies have assisted veterans in their efforts to find jobs. This responsibility was formalized in 1933 with the enactment of the Wagner-Peyser Act, which established the United States Employment Service and created a Veterans' Service as part of that service. Title IV of Public Law 78-346, the Servicemen's Readjustment Act (referred to as the GI Bill of Rights), which strengthened the functions of the Veterans' Employment Service in the United States Employment Service, states, "In the enactment of the provisions of this title Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment."

Congress' commitment to the provision of employment assistance to our nation's veterans is deep and long-standing, and through the years, Congress has established a number of programs to maximize employment opportunities for those who serve in our Armed Forces. Overall, these programs have been effective, and hundreds of thousands of veterans have been placed in meaningful employment as a result of the combined federal/state commitment now codified in chapter 41 of title 38, United States.

Nonetheless, testimony received by the subcommittee on May 13th indicated a clear need for serious reevaluation of the law governing delivery of employment services to veterans, including a revision of chapter 41. The subcommittee concluded that for too long job descriptions and responsibilities under chapter 41 had been unclear and accountability of those involved in the delivery of employment services needed to be strengthened. Reform was necessary to eliminate misunderstandings, abuse, and inadequate services to veterans. Accordingly, it is the intent and purpose of the committee bill to strengthen and enhance the federal/state partnership established to maximize employment opportunities for veterans.

DISCUSSION OF THE BILL

Local Veterans' Employment Representatives

First established under Public Law 78-346, Local Veterans' Employment Representatives (LVERs) are an important component in the delivery system of veterans' employment assistance. Historically, the role of an LVER has been rather vague, with current law requiring that an LVER's ". . . services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and such representative's assistants." In other words, an LVER should perform the same duties, within the structure of a local employment service office and at the local level, as are required of Directors and Assistant Directors for Veterans' Employment and Training.

It was brought to the attention of the committee that because the law lacks specificity regarding LVER responsibilities, states have, over the years, developed LVER job descriptions which are not uniform and may not meet the intent of the law. Accordingly, the committee bill would clearly list and define LVER responsibilities. In his testimony before the subcommittee on September 17th, Mr. Thomas Dyson, representing the Interstate Conference of Employment Security Agencies, Inc. (ICESA) stated, "We are particularly supportive of that section of the draft bill which, for the first time, establishes a separate and complete description of the duties and responsibilities of Local Veterans' Employment Representatives . . . If enacted, this provision would provide greater clarity and understanding of the role of LVERs, both in relation to SDVETS and their functioning in Employment Service (ES) local offices."

It is the expectation of the committee that states will review existing LVER job descriptions to ensure that they fully comply with the intent of Congress. Directors for Veterans' Employment and Training should examine States' LVER job descriptions when negotiating annual contracts and, when necessary, assist with the development of a job description which tracks that in the law.

It should be noted that the committee considers all listed LVER responsibilities to be critical to the effective delivery of employment services to veterans. Particular emphasis should be given, however, to the requirement that LVERs functionally supervise the provision of services to eligible veterans and eligible persons by the local employment service staff. The committee bill further requires the LVER to submit a report directly and periodically to the manager of the local employment service office regarding compliance with Federal law and regulations concerning special services and priorities for veterans. A copy of this report is to be supplied to the Director for Veterans' Employment and Training in the State. It is the intent and expectation of the committee that this organizational structure will ensure that those responsible will be fully aware of local office efforts to comply with laws and regulations pertaining to the delivery of employment services to veterans. With this structure, problems with service delivery can be addressed quickly and major difficulties avoided. The committee feels that LVER reports should be done at least quarterly so that if reviews of local office procedures are necessary, they will be done on a timely basis.

Section 2 of the committee bill would also provide an LVER funding formula which would reflect the actual need for these positions. This formula would provide one-third of a full-time LVER position for every 25,000 veterans residing in a State, one-third of a full-time position for every 1,400 eligible veterans and eligible persons registered for assistance during the preceding fiscal year with a local employment service office in a State, and one-third of a full-time position for every local employment service office in a State. It is the committee's view that this formula would take into account the primary factors which affect the demand for employment assistance among the veteran population.

The committee bill directs that an individual shall be considered to be registered for assistance with a local employment office if the individual is registered or renewed such registration during a previous program year and is counted as still being registered for administrative purposes. The committee urges that regulations issued related to this provision direct that an individual not be considered deactivated until an attempt has been made by the appropriate local office staff to contact the veteran and determine if the veteran desires further assistance.

Also included in Section 2 of H.R. 3460 is a requirement that the assignment of LVERs to local employment service offices within a State shall be made by the head of the State employment service after consultation with the Director for Veterans' Employment and Training. In the event that a Director should have concerns regarding LVER placements, the Director should document these concerns and raise this issue with the head of the State employment service when conducting the annual contract negotiation.

There are other issues relating to LVERs which the committee wants to clarify. First, the committee emphasizes that veterans should be given preference when filling LVER positions. The committee is aware that many outstanding, productive LVERs, some of whom have been singled out for awards because of their contributions, are not veterans, and the committee is deeply grateful to these individuals for their hard work and commitment. Nonetheless, in general, the committee expects that every effort will be made to accommodate the preference required by law, and failure to do so could result in committee action in the future requiring that LVERs be veterans.

Next, the committee is aware that the requirement that Disabled Veterans Outreach Program specialists (DVOPs) and LVERs serve only veterans needs clarification. It is the committee's view that this requirement is to be strictly adhered to except in rare instances. Unusual circumstances would include situations such as an unusually large number of individuals seeking employment assistance due to a plant closing or significantly reduced local office staff resulting from illness or training outside the local office. Under such circumstances, DVOPs and LVERs, after serving veteran clients, may assist other individuals.

Additionally, the committee encourages appropriate Employment Service (ES) managers to occasionally visit out-stationed DVOPs to ensure that maximum assistance is being provided to veterans. It has been reported to the committee that some out-stationed DVOPs are not fulfilling their responsibilities, and it is the view of the committee that on-site visits by ES managers would be helpful in correcting this situation.

The committee agrees that the Veterans' Administration must address the issue of employment problems and establish a systemwide policy. It has also been suggested to the committee that additional DVOPs should be placed in VA regional offices with particular emphasis on assistance to those veterans completing vocational rehabilitation training. The committee concurs with this recommendation. Finally, the committee agrees with the suggestion made by the DAV witness at the September 17th hearing that DVOPs and LVERs make every possible effort to locate discouraged workers and assist them in their efforts to reenter the workforce.

Administration

Section 3 of H.R. 3460 would clarify the role of the Assistant Secretary of Labor for Veterans' Employment and Training (ASVET), and emphasize that the Secretary of Labor shall carry out the provisions of chapter 41 and chapter 43 of title 38, USC, through the ASVET and shall administer all veterans' employment and training programs through the ASVET.

Of particular note in this section is the requirement that the Secretary, through the ASVET, promote, facilitate, and monitor participation of qualified veterans and eligible persons in employment and training opportunities under the Job Training Partnership Act and other Federal and federally-funded employment and training programs. Strong support for this provision was expressed during the September 17th hearing by Mr. Dennis Rhoades of The American Legion who stated, ". . . The American Legion has urged the Committees on Veterans, Affairs for the past several years to strengthen chapter 41 by including this type of reference in the statute . . . We are, therefore, particularly pleased with this provision."

The committee emphasizes that this provision would apply to any program which may be enacted in the future targeted to assist dislocated workers. DOL statistics indicate that nearly 26 percent of all dislocated workers are veterans, a percentage which is nearly twice their incidence in the labor force. Clearly, particular emphasis must be placed on assisting this group of veterans. Inclusion of this provision demonstrates committee support for the recommendation made by Mr. Robert Jones, testifying on behalf of the Veterans of Foreign Wars, that the committee, ". . . Ensure that the ASVET is made a part of any and all decision-making processes in the Department of Labor (DOL) that will affect any employment and employment job training programs furnished through the department . . ."

This section also requires the Secretary to assign to each region for which the Secretary operates a regional office an eligible veteran to serve as the Regional Administrator for Veterans' Employment and Training. It further requires the establishment of the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training within the Senior Executive Service. The committee shares the view expressed by Mr. John Messmore, representing the Vietnam Veterans of America, who told the subcommittee, "VVA believes that both of these specific provisions are necessary in order to protect the integrity of the managerial/operational activities and responsibilities of the Veteran Employment and Training Services (VETS.) VVA believes that VETS is struggling hard to improve the management of its resources. These two provisions will help ensure that they have people in key positions to continue that process."

Relative to the issue of funding for DVOPs and LVERs, the committee is concerned by comments made by the ICESA witness, Mr. Thomas Dyson, before the subcommittee on September 17th. Mr. Tyson testified that, "It is important to recognize at this time, Mr. Chairman, that even the most effective and efficient method for determining numbers of staff and the allocation of positions would be a shallow exercise if the Department of Labor does not have procedures in place to accurately determine costs and include these figures in the annual budget request to the Congress. Authority for DOL to pursue such a process is already contained in section 2006 of chapter 41, but it has not been adequately implemented . . . A more thorough approach, which we recommend, would include surveying ES [Employment Service] agencies annually to determine salary and benefit levels as well as a process which could accurately determine costs for overhead and staff support activities (e.g., travel and training). Over the past few years, ES agencies have been told exactly how much funding they would receive for a specific number of LVER positions, regardless of whether or not sufficient funds were available to support these mandated positions. As a result, many States were forced to fill fewer positions than statutorily required, greatly weakening the program."

The committee notes that section 2006(a) of title 38, United States Code, requires the Secretary to estimate the funds necessary for the proper and efficient administration of chapters 41, 42, and 43. It is clear to the committee that annual surveys, as suggested by ICESA, are necessary to accurately comply with this requirement. The committee urges the Secretary to base funding estimates on annual ES surveys which must include administrative overhead and agency support costs associated with the statutorily required positions.

Responsibilities of Directors for Veterans' Employment and Training at State Level

Section 4 of the committee bill would expand the responsibilities of Directors for Veterans' Employment and Training. First, this section would clearly establish the responsibility of Directors, in cooperation with the staff of the public employment service system and the staffs of other programs in the State, to functionally supervise the provision of services to eligible veterans and eligible persons by the ES system and other pertinent programs. It is the view of the committee that the inclusion of this responsibility will clarify and strengthen the mutually supportive relationship which should exist between Federal and State officials responsible for the delivery of employment services to veterans.

Because of the sensitivity and critical nature of this provision, the committee encourages the Secretary to include the following definition in regulations which will be promulgated relative to this bill:

> Functional supervision by Directors and Assistant Directors for Veterans' Employment and Training consists of assisting state agency personnel in carrying out services to veterans and eligible persons and evaluating the State agency's performance. Functional supervision shall entail providing technical assistance, making suggestions for im-

> provement of services, helping to plan programs and projects, checking for compliance with ETA regulations affecting veterans, helping to correct errors by working with local and state staffs, analyzing work as it affects veterans and eligible persons, training new state agency employees and providing refresher courses for state agency staff, bringing matters which require corrective action to the attention of those state agency personnel who have authority over policy, procedures and staff. Functional supervision does not authorize a DVET or ADVET to hire, fire, discipline or issue directives to state agency employees. It also does not authorize a DVET or ADVET to make regulations, change procedure or establish policies for the state agency without specific authority from the state agency.

It is the intent of the committee that the Directors, in coordination with the Assistant Secretary of Labor for Veterans' Employment and Training, shall be the principal advisors to the States in the development and implementation of any dislocated worker programs as they relate to veterans. The Directors shall facilitate and coordinate the use of veterans benefits and programs that may be relevant to veteran dislocated workers such as vocational rehabilitation. It is important that Directors be sufficiently knowledgeable regarding available programs so that they may effectively assist in the development of veteran dislocated worker programs.

Section 4 would also require Directors to monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal government. When asked to comment on this provision during the September 17th hearing, the Assistant Secretary of Labor for Veterans' Employment and Training, the Honorable Donald Shasteen, pointed out, "We are finding that more and more managers in Government are new to veterans preference and are not veterans themselves and do need quite a bit of education on the various veterans preference laws, particularly in the VRA appointment authority and the special authority that exists for the appointment of special disabled veterans." The committee believes it is important that Directors have the authority to assist Federal agencies in their efforts to comply with the requirements of law regarding veterans preference in Federal employment.

Additionally, this section of H.R. 3460 would require Directors to monitor the listing of vacant positions with the United States Employment Service by Federal agencies as required by section 3327 of title 5, United States Code. As pointed out by Mr. Ronald Drach in his testimony on behalf of the Disabled American Veterans, this section was added to title 5 by the Civil Service Reform Act of 1978 and requires Federal agencies to list with the Job Service each vacant position which is in the competitive service or the Senior Executive Service and for which the agency seeks applications from individuals outside the Federal service.

National Veterans' Employment and Training Service Institute

Section 5 of H.R. 3460 would establish the National Veterans' Employment and Training Service Institute. Established administratively in September, 1986, by the Assistant Secretary of Labor for Veterans' Employment and Training, Donald E. Shasteen, training sessions were initiated in January, 1987. The goal of this program is to enhance the quality of services provided to veterans by DOL and affiliated state employment agencies through week-long training programs for LVERs, DVOPs, and others involved in veterans' employment and training services.

It is the intent of the committee that the Institute, with the approval of the Assistant Secretary of Labor for Veterans' Employment and Training, shall have the authority to enter into contracts with state institutions for delivery of training to personnel responsible for delivery of employment and training services to veterans within that state.

Secretary's Committee on Veterans' Employment

Section 6 of the committee bill would expand the Secretary's Committee on Veterans' Employment to include a representative of the Secretary of Education, the Postmaster General, and the Director of the ACTION Agency. All of these agencies can have a positive impact on veterans' employment and training, and it is the committee's view that representatives of these agencies should be involved in the activities of this important committee.

The committee also urges that a representative of the United States Employment Service, the Office of Federal Contract Compliance Program (OFCCP), and the Employment and Training Administration should attend the meetings of the Secretary's committee.

Waiver of Residency Requirement for Directors and Assistant Directors for Veterans' Employment and Training

Under current law, Directors and Assistant Directors for Veterans' Employment and Training must be eligible veterans who have been residents of the State for at least two years. This requirement, which was included when the position of Director was established in 1944 under Public Law 78-346 (popularly known as the GI Bill of Rights), is extremely important and has contributed much to the success of veterans' employment and training programs established during the past 47 years.

It has been suggested to the committee, however, that on rare occasions, some States have experienced difficulty in locating capable, qualified individuals for appointment as Directors and Assistant Directors and that it would be desirable to waive the two-year residency requirement in the event that no qualified veteran is available to fill the position who meets the residency requirement. Such authority would be granted by the reported bill.

Most veterans' service organizations have opposed the residency requirement for several years and have repeatedly called for its elimination. It should be noted that no service organization has brought specific information to the committee that would warrant the elimination of the rule and as indicated previously, the residency requirement has been a part of the law for many, many years. Nonetheless, the committee is willing to provide some flexibility in the rule, but only to the extent that it can be clearly established that the two-year residency requirement prevents the appointment of the best qualified individual.

The committee emphasizes that the waiver provided under this section is not to be implemented unless every effort has been made to find a qualified veteran who meets the residency requirement. The purpose of the residency requirement is to ensure that Directors and Assistant Directors are familiar with the needs of the veterans in that State. It is the feeling of the committee that a state resident is usually more familiar with the leading employers in the state and would be more knowledgeable about state economic conditions and industry, thus enabling the Department of Labor State officials to better fulfill their responsibilities.

Job Banks

The committee would like to express its support for the implementation of a national computerized job bank system. The authorization for such a system was contained in Public Law 97-100, the Job Training Partnership Act.

P.L. 97-100 required that the job bank and matching program include the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors as required by section 2012(a) of title 38, USC, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available individuals and job vacancies. In addition, such system would provide an expeditious means of matching the qualifications of unemployed and underemployed individuals with employer requirements and job opportunities and refer and place such individuals in jobs.

The committee shares the view of the House Committee on Education and Labor expressed in House Report 100-40, Part 5, page 95, that, ". . . the automation of public employment services throughout the Nation would help bring a far greater number of job-seekers and potential employers together in an efficient and timely manner." The establishment of a computerized job bank and matching program would greatly assist our Nation's veterans in their efforts to find employment.

SECTION-BY-SECTION ANALYSIS

Section 1 states that the Act may be cited as the "Veterans' Employment and Training Act of 1987."

Subsection (a) of section 2 would amend section 2004 of title 38, United States Code, by restating current provisions regarding the assignment in each State of local veterans' employment representatives (LVER's) and by expanding and delineating the stated responsibilities of such representatives regarding the employment and training of eligible veterans and eligible persons. It also provides that each LVER shall be subject to administrative control by the manager of the employment service local office and will periodically report to said manager and to the Director for Veterans' Employment regarding compliance with Federal laws on the provision of services and priorities for eligible veterans.

Amended section 2004 sets forth a formula which specifies that the Secretary of Labor, through the Assistant Secretary for Veterans' Employment and Training, shall make available during each fiscal year for use in each State, an amount determined to support one-third of a full-time LVER for each 1,400 eligible veterans or eligible persons who were registered for assistance as of the end of the program year immediately preceding the fiscal year for which funding is being determined, one-third of a full-time LVER for each 25,000 veterans who were residing in such State at the end of the previous fiscal year, and one-third of a full-time LVER for every local employment service office in such State at the end of the previous year. For fiscal year 1988, an amount shall be made available in each State sufficient to support the number of LVER's in that State as of April 1, 1987.

Amended section 2004 further specifies that, in determining the number of LVER's under the above-noted formula, fractions shall be rounded up to the nearest one-half or whole number. It further provides that the assignment of LVER's to local offices shall be made by the head of the employment service after consultation with the Director for Veterans' Employment and Training and that, for purposes of subsection (d), an individual will be considered to be registered for assistance if the individual registered, or renewed his or her registration, for assistance during the program year or registered or renewed during a previous year and, in accordance with regulations to be prescribed by the Secretary, is counted as still being registered for administrative purposes.

Subsection (b) of section 2 amends section 2001 of title 38, United States Code, by adding a definition of the term "local employment service office" to mean a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.

Subsection (c) of section 2 makes a clerical amendment to the table of contents of chapter 41 of title 38, United States Code, by amending the item for section 2004 to read "Local veterans' employment representative."

Subsection (a) of section 3 amends section 2002A of title 38, United States Code, by adding a new subsection (b) which specifies that the Secretary of Labor shall carry out the provisions of chapters 41 and 43 of title 38, United States Code, as well as administer all programs for the provision of employment and training services to meet the needs of disabled veterans, Vietnam era veterans and other eligible veterans or persons, through the Assistant Secretary of Labor for Veterans' Employment and Training.

New subsection (b) further delineates six areas of responsibility with regard to administration of the applicable provisions in chapters 41 and 43 regarding employment and job training services for veterans or eligible persons.

Subsection (a) of section 3 also adds a new subsection (c) to section 2002A which provides that the distribution of funds under sections 2003A(a) and 2004 of title 38 shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by any laws or regulations inconsistent with such sections and that, in determining the terms and conditions of a grant or contract under which funds are available to a state to carry out sections 2003A or 2004, the Secretary shall take into account the results of such monitoring.

Also added is a new subsection (d) which states that the Secretary shall assign in each regional office a representative of the Veterans' Employment and Training Service, who shall be an eligible veteran, to serve as the Regional Administrator for Veterans' Employment and Training in that region. Under this new subsection, each Regional Administrator shall be responsible for ensuring the promotion, operation and implementation of all veterans' employment and training programs and services; ensuring proper veterans' employment under Federal contracts; protecting and advancing veterans' reemployment rights; and coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving grants from the Department of Labor within the region.

Finally, subsection 3(a) adds a new subsection (e) to section 2002A establishing a Deputy Assistant Secretary of Labor for Veterans' Employment and Training within the Senior Executive Service, which must be filled by an eligible veteran. The Secretary of Labor is directed therein to appoint such Deputy Assistant Secretary no later than the beginning of program year 1989.

Subsection (b) of section 3 amends section 2006(a) of title 38, United States Code, to provide that the estimate of funding necessary for the proper and efficient administration of chapters 41, 42 and 43 shall include amounts necessary in all the States for the purposes of sections 2003A, 2004, and 2009, and to fund the National Veterans' Employment and Training Service Institute under section 2009.

It also amends such section to clarify that each budget submission with respect to such funds shall include separate listings for the National Veterans' Employment and Training Service Institute and of the proposed numbers, by state, of DVOP's and LVER's, together with information demonstrating compliance of the budget submission with the new funding requirements noted above.

Subsection (c) of section 3 amends section 2006(d) to limit, with no exceptions, use of administrative funds made available under subsections (b) and (c) of section 2006 to those purposes specified in such subsections.

Subsection (d) of section 3 would amend section 2007(c) of title 38, United States Code, to restate and expand current reporting requirements of the Secretary of Labor in carrying out the provisions of chapter 41 and programs for the provision of employment and training services to meet the needs of veterans.

Subsection (e) of section 3 would make conforming and clerical amendments to sections 2002A, 2003A, and 2006(a) of title 38, United States Code, and to the table of contents for chapter 41 of such title.

Section 4 would amend section 2003(c) of title 38, to expand the responsibilities of Directors for Veterans' Employment at the State level to include the functional supervision of the provision of services to eligible veterans and eligible persons and to require that the Director monitor the implementation of Federal laws requiring veterans preference within the Federal Government and the listing of vacant positions with the United States Employment Service by Federal Agencies.

Section 5 would revise section 2009 of title 38, United States Code, (the current provisions of which would be supplanted by amendments to sections 2004 and 2007) to establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Service Institute for the training of DVOP's, LVER's, Directors for Veterans' Employment and Training and their Assistant Directors and such other personnel as the Secretary of Labor considers appropriate, including travel expenses and per diem for attendance at the institute.

Section 6 would amend section 2010(b) of title 38, United States Code, to include as a member of the Secretary of Labor's Committee on Veterans' Employment, a representative of the Secretary of Education and representatives of the Postmaster General and the Director of the ACTION Agency.

Section 7 would amend section 2003(b)(1) of title 38, United States Code, to waive, under specified conditions, the current State residency requirements for the positions of State Director or Assistant State Director for Veterans' Employment and Training. It would provide that, if, in appointing a Director or Assistant Director, the Secretary determines there is no qualified veteran available who meets the residency requirements, the Secretary may appoint as such Director or Assistant Director any qualified veteran.

Section 8 would make amendments to various sections in chapter 41 in the nature of revisions of nomenclature.

Section 9 states that the amendments made by this Act shall apply to fiscal year 1988 and fiscal years thereafter.

OVERSIGHT FINDINGS

No oversight findings have been submitted to the committee by the Committee on Government Operations.

INFLATIONARY IMPACT STATEMENT

The reported bill will have no inflationary impact.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 14, 1987

Honorable G.V. Montgomery
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate for H.R. 3460, the "Veterans' Employment and Training Act of 1987," as ordered reported October 14, 1987. The bill would authorize funds for additional Local Veterans' Employment Representatives and a National Veterans' Employment and Training Service Institute.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Edward

Edward M. Gramlich
Acting Director

cc: Honorable Gerald B. H. Solomon
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 14, 1987

1. BILL NUMBER: H. R. 3460

2. BILL TITLE:

Veterans' Employment and Training Act of 1987.

3. BILL STATUS:

As ordered reported by the Committee on Veterans' Affairs on October 14, 1987.

4. BILL PURPOSE:

To require the Secretary of Labor to authorize funds for additional Local Veterans' Employment Representatives (LVERs) and a National Veterans' Employment and Training Service Institute and to appoint a Regional Administrator for Veterans' Employment and Training in each region where the Secretary operates a regional office.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Local Veterans' Employment Representatives					
Estimated Authorization Level	6	7	7	7	7
Outlays	6	7	7	7	7
Regional Administrator for Veterans' Employment and Training					
Estimated Authorization Level	1	1	1	1	1
Outlays	1	1	1	1	1
National Veterans' Employment and Training Institute					
Estimated Authorization Level	3	3	3	3	3
Outlays	3	3	3	3	3

(continued.) (by fiscal year, in millions of dollars)

Total	1988	1989	1990	1991	1992
Estimated Authorization Level	10	11	11	11	11
Outlays	10	11	11	11	11

The costs of this bill would fall within budget function 500.

Basis of Estimate

This bill would require that funding be made available to the states sufficient to hire approximately 165 additional local veterans' employment representatives (LVERs). The estimated cost of increasing the number of LVERs is based on the average salary and overhead expenses of currently employed LVERs with allowances for inflationary increases.

Under the provisions of this bill, the Secretary of Labor would be required to establish the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training and to assign a Regional Administrator for Veterans' Employment and Training for each region where the Department of Labor (DOL) has a regional office. Currently, there is a Deputy Assistant Secretary of Labor for Veteran's Employment and Training and there are seven Regional Administrators. The DOL has ten regional offices so three additional Regional Administrators would be necessary under the provisions of this bill. The estimated cost of three additional regional administrators and accompanying support staff is based on salary and staffing information, from the Office of the Assistant Secretary of Veterans' Affairs and typical overhead expenses for the DOL. These estimated costs are adjusted for inflation.

This bill would authorize a National Veterans' Employment and Training Service Institute for the training of LVERs, disabled veterans' outreach specialists (DVOPs), state and assistant state directors of veterans' training programs, and other personnel involved in training and counseling veterans. The bill also would provide for the payment of travel expenses to and from the institute and a per diem for attendance at the institute. The institute already exists, however, it is not formally authorized and is funded out of residual funds from the appropriation for DVOPs. According to testimony by the Department of Labor, approximately $2 million would be spent on the institute in 1988. The estimate shown is slightly higher to allow for training the new LVERs and to allow for inflationary increases in the cost of travel, training and per diem allowances.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENT:

The additional LVERs required by this bill would be hired by each state. The bill, however, authorizes funding to reimburse the state so this bill would not affect the net budgets of state and local governments.

7. ESTIMATE COMPARISON:

On July 21, 1987 CBO estimated the costs of S. 999, as ordered reported by the Senate Committee on Veterans' Affairs, July 28, 1987. S. 999 would also increase the number of LVERs and would authorized funding for a National Veterans' Employment and Training Service Institute. The estimate for the LVER provision is shown below. The CBO recently received information from the DOL which indicates that the number of LVERs, required under current law in 1988, should be 1455 rather than 1340. The revision in the estimated number of LVERs required under current law was due to significant increases in the number of veterans who have registered for assistance with their local employment offices. Since the number of LVERs required under S. 999 was dependent on the difference between 1600 (the minimum number of LVERs required) and the projected number of LVERs under current law, the estimated cost of the LVER provision in S. 999 changes with the revised estimate of the number of LVERs required under current law. The revised estimate is shown below.

(by fiscal year, in millions of dollars)

July 21, 1987 CBO estimate of Local Veterans' Employment Representative provision of S.999					
Estimated Authorization Level	10	10	11	11	11
Outlays	10	10	11	11	11
Revised estimate of Local Veterans' Employment Representative provision of S. 999					
Estimated Authorization Level	6	6	6	6	6
Outlays	6	6	6	6	6

The costs of these provisions would fall within budget function 500.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: Richard Curley (226-2820).

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

AGENCY REPORT

On September 17, 1987, the Subcommittee on Education, Training and Employment received the following testimony from Mr. Donald E. Shasteen, Assistant Secretary for Veterans' Employment and Training, U. S. Department of Labor, on a draft measure similar to the reported bill:

Thank you for this opportunity to appear today to discuss draft legislation to amend chapter 41, Title 38, United States Code, the "Veterans' Employment and Training Act of 1987."

Mr. Chairman, provisions contained in this draft bill will increase costs and impose additional reporting requirements. These undesirable effects, in our opinion, are of such magnitude that the Administration opposes the draft bill.

There are some elements of this bill which we believe could assist veterans in obtaining jobs and training, and with little or no costs. Many of the changes included in the bill have already been implemented. Other elements can be implemented adminstratively. Therefore, we see no need for this bill. We recommend, as a preferable course of action, working closely with this committee to accommodate them as best we can.

I would like to address some of the specific reasons for the Administration's concerns.

Section 2 of the draft bill would increase the number of Local Veterans' Employment Representatives (LVERs) and the federal funds required to support them. The formula by which the number of LVERs would be determined includes veterans population as a factor. It would require one-third of a full-time LVER position for every 25,000 veterans residing in a State at the end of the previous fiscal year.

In our opinion, current and projected LVER assignments are adequate to meet the mandates of Title 38. However, since we were asked to comment on the specifics of the draft, let me focus on several points.

We submit that population is not a good measure of veterans' attachment to the labor market or the need for services of an LVER. Many states such as Florida, Arizona and California have large numbers of retired veterans who aren't looking for work or training. Those large numbers distort the data of such states, and would result in the allocation of inflated numbers of LVERs where they are not needed.

The current criterion for determining LVER positions is based on workload which is the best measure of staffing requirements. We do not believe that a requirement that staffing be tied to veterans population and number of local offices or service delivery points in addition to workload is sound. Furthermore, we do not believe that the workload criterion of 1,400 eligible veterans and other eligible persons is high enough as a workload basis for assigning an LVER. However, we suggest that if the provision is not deleted that the proposed criterion should be revised to read "who registered for assistance with local employment service system, the criterion should specify registration with local employment service offices.

In addition, the portion of the formula which requires one-third of a full-time LVER position for every service delivery point at which employment services are offered is flawed. The term "service delivery point" is not synonymous with the term "local office". Adoption of this criterion would mean that offices such as itinerant points, those offices where staff merely consists of an interviewer stationed at a shopping center, and offices which provide only unemployment insurance claims-taking, would be counted in the formula. Considering that most states most certainly have such offices, the number of LVER positions will be inflated considerably, without workload justification. The criterion should be related to the "local offices" in each State, meaning those offering a range of employment services and having an intrinsic management structure.

For these reasons, I believe that if there were any need to change the formula, it should be based on workload as the best measure of meeting veterans' needs. Based on results of our local office evaluations, support by state employment service agency management of the concept of priority for veterans contributes more significantly to providing priority services to veterans than does the number of LVERs assigned.

We believe that other provision of the bill requiring the Secretary to appoint Regional Administrators for VETS for every regional office; requiring the Secretary to establish the position of Deputy Assistant Secretary for VETS; and specifying in detail what must be included in budget estimates are each unnecessary.

Concerning the requirement for additional Regional Administrators for VETS, currently, VETS' seven Regional Administrators successfully manage an evenly distributed workload based on numbers of states and density of veterans population. Additional Regional Administrators would not enhance or increase the delivery of services to veterans through the states, and would require nine additional positions.

On behalf of Secretary Brock, I must object to the statutory establishment of a career Deputy Assistand Secretary for VETS. We believe the Secretary should maintain flexibility to decide whether the establishment of new department executives is necessary.

Furthermore, we strongly oppose these two provisions because they would statutorily mandate organization within the Department of Labor. The Secretary must have management discretion to organize the department.

The revisions of the provision requiring detailed budget estimates are burdensome and unnecessary. Details of what are included in budget estimates should not be specified in the law. The Department would, of course, answer any questions about specific items in its budget request.

Commenting further on the draft bill, Section 3(c), Reporting Requirements, refers to an annual report to the appropriate committees of the Congress covering activities and programs "during the preceding fiscal year." Using the fiscal year as a base period would create a reporting problem because the Department has been operating employment and training programs on a "program year" basis over the past several years, as provided for in the Wagner-Peyser Act and Job Training Partnership Act. All program and performance data is tracked for the period July 1 through June 30 for each program year; compiling a fiscal year report would create a disconnect in our program data. Therefore, it is highly recommended that reporting requirements be specified on a program year basis. Without such a change, it will be necessary to reprogram the computerized reporting system at considerable time and expense to accommodate the fiscal year veterans' program report requirements. Further, all other Department employment service activities and training programs under the Job Training Partnership Act, except for veterans' programs, would be reporting on a program year basis, making comparisons very difficult, if not impossible. In addition, we do not believe the specific content of the report should be specified in law. Most of the data are already available and published.

Section 4 of the proposed legislation requires the establishment of a national training institute to train Disabled Veterans' Outreach Program (DVOP) and LVER staff as well as Directors for Veterans' Employment and Training Service and their Assistants. Such training would be concerned with provision of job training, placement, counseling and related services to veterans. This provision is simply not necessary, Mr. Chairman.

As you know, the VETS currently operates the National Veterans' Training Institute (NVTI) through a grant to the State of Colorado. Following the "whole person" concept, training is given to DVOP, LVER and other state agency staff to provide services to veterans. We cannot support a permanent "Institute", mandated by law, because the long-term needs have not yet been established. While we fully intend to maintain NVTI as long as the need exists, we do not feel that this legislation provides the flexibility to administer NVTI in a cost-effective manner.

Another section of the draft bill which I would like to comment upon is Section 5, dealing with the Seccretary's Committee on Veterans' Employment. We have forwarded legislation to Congress on August 31, 1987, which addresses this specific point. We strongly recommend that our proposal be enacted to allow any additions or revisions to the federal membership of the committee at the discretion of the Secretary of Labor, who is Chairman of the committee. this would permit the inclusion of other agencies besides thos enumerated in the law which might have programs that are involved with veterans' employment and training issues; one such agency is ACTION.

Mr. Chairman, I began my testimony by stating that some actions consistent with this proposed legislation could be taken administratively to strengthen implementation of Title 38. In particular, we believe we must ensure that job counseling is available to veterans at the local employment service office level and that properly trained DVOP and LVER staff are able to provide this service. For this reason, I have already directed the development of a job counseling module for inclusion in the curriculum at the NVTI and instructed that this training module be implemented as soon as practical. I believe we can accomplish this within current law and budget, thereby providing vastly improved services to veterans.

I would like to add that we have changed the titles of our field staff. We now have Regional Administrators instead of Regional Directors and also Directors and Assistant Directors instead of

State Directors and Assistant State Directors for Veterans' Employment and Training Service.

Mr. Chairman, that concludes my remarks and I would like to thank you once again for this opportunity to provide my views regarding the proposed Veterans' Employment and Training Act of 1987.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * * * *

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
2000. Findings.
2001. Definitions.
2002. Purpose.
[2002A. Assistant Secretary of Labor for Veterans' Employment.]
2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators; Deputy Assistant Secretary of Labor for Veterans' Employment and Training.
[2003. State and Assistant State Directors for Veterans' Employment.]
2003. Directors and Assistant Directors for Veterans Employment and Training at State level.
2003A. Disabled veterans' outreach program.
[2004. Employees of local offices.]
2004. Local veterans' employment representative.
2005. Cooperation of Federal agencies.
2006. Estimate of funds for administration; authorization of appropriations.
2007. Administrative controls; annual report.
2008. Cooperation and coordination with the Veterans' Administration.
[2009. National veterans' employment and training programs.]
2009. National Veterans' Employment and Training Service Institute.
2010. Secretary of Labor's Committee on Veterans' Employment.

§ 2000. Findings

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam era veterans, alleviating unemployment and undereployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for

such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment and Training.

* * * * * * *

§ 2001. Definitions

For the purposes of this chapter—

(1) * * *

* * * * * * *

(7) The term "local employment service office" means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.

(8) The term "Secretary" means the Secretary of Labor.

§ 2002. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies and regulations shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment *and Training,* established by section 2002A of this title, through a Veterans Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans of the Vietnam era through existing programs, coordination and merger of programs and implementation of new programs.

[§ 2002A. Assistant Secretary of Labor for Veterans' Employment]

§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators; Deputy Assistant Secretary for Labor for Veterans' Employment and Training

(a) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment *and Training*, appointed by the President by and with the advice and consent of the Senate, who shall be the principal adviser to the Secretary [of Labor] with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans. The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment *and Training.*

(b) The Secretary shall—

(1) carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and shall administer, through such Assistant Secretary, all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

(2) in order to make maximum use of available resources, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans and eligible persons under all such programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title;

(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

(5) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under this chapter;

(6) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of sections 2003A and 2004 of this title; and

(7) promote, facilitate, and monitor participation of qualified veterans and eligible persons in employment and training opportunities under the Job Training Partnership Act and other Federal and federally funded employment and training programs.

(c)(1) The distribution and use of funds under sections 2003A(a) and 2004 of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 2003A or 2004 of this title.

(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State in order to carry out section 2003A or 2004 of this title, the Secretary shall take into account the results of the monitoring carried out under this section.

(d)(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service who shall be an eligible veteran

to serve as the Regional Administrator for Veterans' Employment and Training in such region.

(2) Each such Regional Administrator shall be responsible for—

(A) ensuring the promotion, operation, and implementation of all veterans' employment and training programs and services within the region;

(B) ensuring proper veterans' employment under Federal contracts within the region;

(C) protecting and advancing veterans' reemployment rights within the region; and

(D) coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving grants from the Department of Labor within the region.

(e) There is established within the Department of Labor the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training within the Senior Executive Service. Any person appointed to such position shall be an eligible veteran. The Secretary shall appoint, no later than the beginning of program year 1989, such Deputy Assistant Secretary in accordance with section 3393 of title 5.

[§ 2003. State and Assistant State Directors for Veterans' Employment]

§ 2003. Directors and Assistant Directors for Veterans Employment and Training at State level

(a) The Secretary [of Labor] shall assign to each State a representative of the Veterans' Employment Service to serve as the [State Director for Veterans' Employment] *Director for Veterans' Employment and Training,* and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one [Assistant State Director for Veterans' Employment] *Assistant Director for Veterans' Employment and Training* per each 250,000 veterans and eligible persons of the State veterans population and such additional [Assistant State Directors for Veterans' Employment] *Assistant Directors for Veterans' Employment and Training* as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the [State Director for Veterans' Employment] *Director for Veterans' Employment and Training* to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to [State Directors for Veterans' Employment] *Directors for Veterans' Employment and Training* shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(b)(1)*(A)* Each [State Director for Veterans' Employment] *Director for Veterans' Employment and Training* and [Assistant State Director for Veterans' Employment (A)] *Assistant Director for Veterans' Employment and Training (i)* shall [be an eligible veteran], *except as provided in subparagraph (B) of this paragraph, be a qualified veteran* who at the time of appointment has been a bona fide resident of the State for at least two years, and [(B)] *(ii)* shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.

(2) Each [State Director for Veterans' Employment] *Director for Veterans' Employment and Training* and [Assistant State Director for Veterans' Employment] *Assistant Director for Veterans' Employment and Training* shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary [of Labor] for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the [State Director for Veterans' Employment] *Director for Veterans' Employment and Training* and [Assistant State Directors for Veterans' Employment] *Assistant Director for Veterans' Employment and Training* shall—

(1) *(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)* be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;

* * * * * * *

(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; [and]

(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans[.]*;*

(13) monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal Government; and

(14) monitor the listing of vacant positions with the United States Employment Service by Federal agencies as required by section 3327 of title 5.

§ 2003A. Disabled veterans' outreach program

(a)(1) The Secretary [of Labor], acting through the Assistant Secretary for Veterans' Employment, shall make available for use in each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

* * * * * * *

(3) The Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment *and training,* shall also make available for use in the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

* * * * * * *

[(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.]

(b)(1) * * *

(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. The Secretary, after consulting the Administrator and the [State Director for Veterans' Employment] *Director for Veterans Employment and Training* assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 612A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

* * * * * * *

[(d) The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment. The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.]

[§ 2004. Employees of local offices

[Except as may be determined by the Secretary of Labor based on a demonstrated lack of need for such services, there shall be assigned by the administrative head of the employment service in each State one or more employees, preferably eligible veterans or eligible persons, on the staffs of local employment service offices, whose services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and such representative's assistants.]

§ 2004. Local veterans' employment representatives

(a) There shall be assigned by the administrative head of the employment service in each State local veterans' employment representatives, preferably eligible veterans or eligible persons, on the staffs of local employment service offices.

(b) Such representatives shall—

(1) functionally supervise the providing of services to eligible veterans and eligible persons by the local employment service staff;

(2) maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (A) keeping them advised of eligible veterans and eligible persons available for employment and training, and (B) keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(3) provide directly, or facilitate the provision of, labor exchange services to eligible veterans and eligible persons in local employment services offices, including intake and assessment, counseling, testing, job search assistance, and referral and placement;

(4) encourage employers and labor unions to employ eligible veterans and eligible persons and conduct on-job training and apprenticeship programs for such veterans and persons;

(5) promote, facilitate, and monitor the participation of veterans in Federal and federally funded employment and training programs, and monitor the listing of vacant positions with the United States Employment Service by Federal agencies as required by section 3327 of title 5;

(6) monitor the listing of job and subsequent referrals of qualified veterans as required by section 2012 of this title;

(7) work closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, and cooperate with employers in identifying disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

(8) refer eligible veterans and eligible persons to training, supportive services, and educational opportunities, as appropriate;

(9) assist, through electronic data processing, in securing and maintaining current information regarding available employment and training opportunities;

(10) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

(11) when requested by a Federal or State agency, a private employer, or a service-connected disabled veteran, assist such agency, employer, or veteran in identifying and acquiring pros-

thetic and sensory aids and devices which enhance the employability of disabled veterans.

(c) Each local veterans' employment representative shall be administratively responsible to the manager of the employment service local office and shall provide periodic reports to the manager of such office and to the Director for Veterans' Employment and Training regarding compliance with Federal law and regulations with respect to special services and priorities for veterans and other eligible persons.

(d)(1) The Secretary, acting through the Assistant Secretary for Veterans' Employment and Training, shall make available during each fiscal year for use in each State under this section an amount sufficient to support—

(A) one-third of a full-time local veterans' employment representative for every 1,400 eligible veterans and eligible persons who were registered for assistance with a local employment service office in such State at the end of the program year immediately preceding the fiscal year for which funding is being determined;

(B) one-third of a full-time local veterans' employment representative for every 25,000 veterans who were residing in such State at the end of the previous fiscal year; and

(C) one-third of a full-time local veterans' employment representative for every local employment service office in such State at the end of the previous fiscal year;

except that during fiscal year 1988, an amount shall be made available in each State sufficient to support at least the number of local veterans' employment representatives in that State on April 1, 1987.

(2) For purposes of determining the number of local veterans' employment representatives in a State under paragraph (1)—

(A) each fraction less than one-half of a full-time local veterans' employment representative resulting from the application of the formula in paragraph (1) of this subsection shall be rounded up to the nearest one-half; and

(B) each fraction more than one-half of a full-time local veterans' employment representative resulting from the application of such formula shall be rounded up to the nearest whole number.

(3) The assignment of local veterans' employment representatives to local employment service offices within a State shall be made by the head of the employment service in the State after consultation with the State Director for Veterans' Employment and Training.

(4) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment office during a program year if the individual—

(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

(B) registered or renewed such individual's registration with such office during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

§ 2005. Cooperation of Federal agencies

All Federal agencies shall furnish the Secretary [of Labor] such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary [of Labor] shall estimate the funds necessary for the proper and efficient administration of this chapter and chapters 42 and 43 of this title. Such estimated sum shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary [to fund the disable veterans' outreach program under section 2003A] *in all of the States for the purposes of sections 2003A, 2004, and 2009 and to fund the National Veterans' Employment and Training Service Institute under section 2009* of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such [section. Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment.] *sections. Each budget submission with respect to such funds shall include separate listings of the amount for the National Veteran's Employment and Training Service Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A of this title and local veterans' employment representatives assigned under section 2004 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.*

* * * * * * *

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections[, except with the approval of the Secretary of Labor, upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment, based on a demonstrated lack of need for such funds for such purposes].

§ 2007. Administrative controls; annual report

(a) The Secretary [of Labor] shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially veterans of the Vietnam era and disabled veterans and each eligible person, who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employment prospects substantially, such as individual job development or employment counseling services.

(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary **[**of Labor**]** to be inadequate.

(b) The Secretary **[**of Labor**]** shall establish definitive performance standards for determining compliance by the State public employment service agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary **[**of Labor**]** required by subsection (c) of this section.

[(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service. The report shall also include any determination by the Secretary under section 2004, 2006, or 2007(a) of this title and a statement of the reasons for such determination. The report shall also include a report on activities carried out under section 2003A of this title.**]**

(c) Not later than December 1 of each year, the Secretary shall report annually to the appropriate committees of the Congress on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of veterans. The report shall include—

(1) specification, by State, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each such categories, the numbers referred to and placed in jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service;

(2) a comparison of the job placement rate for each of the categories of veterans and persons described in paragraph (1) of this subsection with the job placement rate for nonveterans registered for assistance with the public employment system in each State;

(3) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

(4) a report on activities carried out during the preceding fiscal year under sections 2003A and 2004 of this title; and

(5) a report on the operation during the preceding fiscal year of programs for the provision of employment and training services designed to meet the needs of veterans, including an evaluation of the effectiveness of such programs during such fiscal year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided under such programs during such year, and such recommendations for further legislative action relating to veterans' employment and training as the Secretary considers appropriate.

§ 2008. Cooperation and coordination with the Veterans' Administration

In carrying out the Secretary's responsibilities under this chapter, the Secretary **[**of Labor**]** shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

[§ 2009. National veterans' employment and training programs

[(a) The Secretary of Labor shall—

[(1) administer through the Assistant Secretary of Labor for Veterans' Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;

[(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

[(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title; and

[(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

[(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provision of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans' employment as the Secretary considers appropriate.]

§ 2009. National Veterans' Employment and Training Service Institute

In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, counseling, placement, and related services to veterans, the Secretary shall, through the Assistant Secretary of Labor for Veterans' Employment and Training, establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Service Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

§ 2010. Secretary of Labor's Committee on Veterans' Employment

(a) There is established within the Department of Labor an advisory committee to be known as the "Secretary's Committee on Veterans' Employment". The committee shall meet at least quarterly for the purposes of bringing to the attention of the Secrtary problems and issues relating to veterans' employment.

(b) [The] *Notwithstanding section 2002A(b) of this title, the* committee shall be chaired by the Secretary [of Labor]. The Assistant Secretary of Labor for Veterans' Employment *and Training* shall serve as vice chairman of the committee. The committee shall include—

(1) representatives of—
  (A) the Administrator;
  (B) the Secretary of Defense;
  (C) the Secretary of Health and Human Services;
  (D) the Secretary of Education;
  [(D)] *(E)* the Director of the Office of Personnel Management;
  [(E)] *(F)* the Chairman of the Equal Employment Opportunity Commission; [and]

[(F)] *(G)* the Administrator of the Small Business Administration; and

(H) the Postmaster General;

(I) the Director of the ACTION Agency; and

(2) a representative of each of the chartered veterans' organizations having a national employment program.

(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.

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